The legal status of women, comp. by Jessie J. Cassidy

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THE LEGAL STATUS OF WOMEN

COMPILED BY JESSIE J. CASSIDY.

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Carrie Chapman Catt

I have six honest serving men, They taught me all I knew, Their names are Who & What & When And how & Where & Who. Kipling

Section IX

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PREFACE.

The following pages do not attempt to cover explicitly the entire condition of the legal status of women in all countries, nor all possible aspects of their status in the United States. It has been found expedient only to state the law on some of the most vital points.

It must understood that the statute law alone has been examined, and that the actual practice in each state is sometimes more, and sometimes less liberal than the statutory enactments. It has been impossible to enter into the question of interpretation of the law. The latest code of each state has been examined with the amendments and additions thereto. It is suggested that an acquaintance with the code and different volumes of the session laws of each state is quite possible to any woman who will read carefully and who can gain access to the books themselves.

Though effort has been made to avoid inaccuracies, it is not claimed that none exist in the matter here presented. Some repealing acts may not have been traced, and some laws enacted have possibly been overlooked. All corrections and additions will be gratefully received by the Committee.

To the friends in each state and territory who have kindly rendered material assistance we wish to express our gratitude, and to the Association of the Bar of New York City, and the New York Law Institute acknowledgment is hereby given for the privilege of consulting their libraries.

CONTENTS.

First Chapter.WOMAN'S POSITION IN THE PAST.- EARLY CONDITIONS.

Scope. —In the following summary of the legal and social status of women in times past, only the briefest outline is attempted. Detailed accounts and the various theories that have been advanced

by different investigators can be found in works on early civilization and sociology, of which a partial list is given on page 116. A fuller study of the subject is earnestly recommended.

Primitive Conditions. —It is indisputable that the ancestors of the most highly civilized races lived through a period when the animal appetites were the strongest actuating forces, and when physical power alone controlled. Since the beginning of human life the position of woman has undergone vast changes. Scientists who have made a study of the earliest history of the race agree that at one period "everywhere women and children have constituted the most primitive of possessions; everywhere men have begun by exercising the power of life and death over these defenseless beings, and therefore, as the greater includes the less, the right of exchange and sale." (Letourneau, "Property," p. 33, also "Evolution of Marriage," p. 202) This may not have been the case in the most primitive condition, but the present legal status of women among the most highly civilized nations is the outgrowth of a previous condition when by reason of his greater physical strength man exercised absolute control over women.

Connection between Women and Property. —The condition of women, as well as the form of government, has always been intimately associated with the development of ownership of property. 6 (Letourneau, "Property," pp. 2 and 22.) The first form of trading was bartering, and women were the first property used in exchange. (Letourneau, "Property," p. 259.) As slavery was established, slaves, women and children shared the same possibility, and were bought, sold, exchanged, mortgaged, rented, loaned, or willed at the pleasure of their owners. A girl was the absolute property of her father, or, if he was dead, of her brother or uncle, until she was married, when the husband exercised the same authority over her, often including the power of life and death. Sons were likewise the property of the father, and often the parental authority continued after the son's marriage. Regarding the possession of property, a wife quite generally was not considered an heir of her husband, but only of her father. When daughters inherited, they usually received less than the sons of such property as was divided, the greater part of a man's possessions, in early times, being either community property or else family property, which was kept intact as a family inheritance. Among the Hebrews, a son received twice as much as a daughter. But in many tribes women did not inherit either was wives or daughters; being themselves property, they passed as such by will or custom to the heir. As the race improved and the beginning of the altruistic sentiments were developed, man's authority over woman was gradually reduced, but up to the time of the Roman Empire the father possessed authority of life and death, the *jus vitæ necisque,* over wife, children and slaves. (Westermarck, "History of Human Marriage," p. 229.)

Women in the Matriarchy. —Bachofen, the Swiss investigator, has given the name matriarchy to a form of society in which descent was traced through the mother, and in which women were treated

with much respect and were possessed of considerable authority. It existed in different degrees among a large number of widely scattered tribes, and generally a larger degree of freedom 7 and property rights were held by women than was the case in patriarchal tribes, though sometimes the authority was confined to domestic affairs and exercised chiefly within the dwelling. (Letourneau, "Evolution of Marriage," pp. 278-80.) The matriarchate was more completely developed in ancient Egypt than anywhere else, and there for a long time, women controlled property and enjoyed a considerable degree of independence. It is claimed that the system was legally abolished by Philopator, and whatever traces of it might have persisted were effaced by the Roman and Saracen conquests.

Development of Marriage Customs. —Woman's position has always been most intimately connected with marriage customs. Many tribes have lived through a period of contracting marriage by capture, more or less brutal, and all have at some time or other practiced marriage by purchase. Spiritual love and sympathy were not elements in marriage when brides were either stolen or purchased and when the man and woman, as a rule, were unacquainted before the ceremony. The domestic affections were only gradually developed, even the lower form of love between man and woman being later than the mother-love for the child, though much earlier than the father-love. (Drummond, "The Ascent of Man," p. 294.) The earlier forms of marriage by capture and purchase gave way, in Greece and Rome, to marriage by dowry. The Grecian and Roman are the only advanced civilizations of antiquity that have contributed directly to the formation of modern civilization, and through them can be traced some of the earliest steps in the improvement of women. In marriage by dowry, the dowry was given by the father nominally to his daughter, but it was in her husband's control. The transition, however, marks an advance in the general estimate of women. By the later Roman law, a woman at her marriage might be given property over and above her dowry, which was called "parapherna," and could be absolutely controlled by her.

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Beginning of Property Rights. —Beside the right to hold paraphernal property, the later Roman law, long after the period of the Twelve Tables, gave daughters the right to inherit equally with sons. Generally, however, no woman, whether married or single, directly controlled property so acquired, but it was in the care of either trustee or husband. After the fall of feudalism, women, particularly single women, gained a few liberties, especially in some localities.

Women Under the Common Law. —The civil law, which is the basis of law of the continent of Europe, and in some of our own states that were settled by the French and Spanish, is the out-growth of Roman law, and perpetuates much of its regulations. As Rome never maintained supremacy in Britain, the Roman law, as such, did not become established in England. But what is called the English common law is the accumulation of opinions and decisions rendered by English courts and

codified by Blackstone, and it is the basis of the law in most of our states, where it is understood to be in force unless abrogated by statutory legislation. By this, no right equivalent to parapherna was given to the married woman. Upon marriage, all of a woman's property, real and personal, and all she acquired subsequently by gift, will or her own labor, was absolutely in her husband's control and subject to his debts. He could will it as he pleased, and if he died intestate, it passed with his own property to his heirs. English law gave a widow the right of dower, which was the use during her life of one-third of her husband's real estate, but this also was originally in the care of a trustee or guardian.

Social Position and Divorce. —Among savage and semi-civilized tribes, and while woman was an actual chattel, her social position necessarily depended upon her owner's pleasure, and never rising very high, sunk at times to the lowest depth of degradation, 9 and for the most part maintained a monotonous level of hardship and labor. Hunting and warfare were the men's occupations, while women did the farming, and were often the beasts of burden.

So long as women were the absolute property of father or husband, their individual aversions or preferences were almost uniformly ignored. Among many tribes the loan of wife or daughter has been, and still is the extreme of hospitality. Travelers have not reported how the victims regard this custom, practiced to-day, among other peoples, by Esquimaux and Japanese. Doubtless such customs, and the realities of polygamous and polyandrous marriages have contributed to the evolution of chastity. Many tribes early placed a high estimate upon feminine chastity, while others were indifferent to it, at least before marriage, and often considered the proof of fertility as an advantage and sometimes a prerequisite for marriage. This was because ancestor worship, and the usefulness of sons for warriors and hunters, as well as property in the shape of daughters, were motives that in ruder conditions of society made a large family desirable. The passion of jealousy, gradually strengthening in the race, manifested itself mainly in the restrictions enforced upon the wife's freedom. No corresponding influence existed regarding men. Various forms of plural marriage long obtained, followed by the harem and legal concubinate, and when these gave way, nominally to monogamy, other means were not wanting to palliate the unwonted rigor. Solon is the first Greek statesman who by legislation, attempted to control and regulate this element in society. His laws were the basis of the Roman laws, from which has grown the present continental system of licensed vice. The English common law ruled that a girl of ten, or sometimes twelve, had sufficient understanding and experience to fully protect herself against the enticements of maturity.

The fact of the wife being property gave the husband, very generally absolute control of divorce. Among some savages, 10 however, divorce is unknown, and among others the wife as well as the husband has some right of divorce. In Greek life the social position of the wife was succinctly stated

in the proverb, endorsed by Thucydides, “That woman is best who is least spoken of among men, whether for good or for evil.” The Greek wife lived a very secluded life, not even being permitted to attend the national dramatic festivals. The Roman matron received more general respect and had more freedom, and was not so entirely cut off from the intellectual society of men. In Greece and in early Rome the husband alone controlled divorce. In later Rome divorces became common, and were granted to both men and women. In the twelfth century the church entirely abolished divorce as a civil proceeding. During the middle ages, though romance and chivalry threw a halo of poetry around women, the sentiment was not always refined, and remnants of earlier degrading customs such as the *droit du seigneur* were maintained. After the Revival of Learning, and the beginning of modern civilization, woman's social position continued to improve.

Support of Wife. —Even among savages there is generally recognized, in some degree, the husband's obligation to support his wife and children. This same feeling, to a certain extent, was the cause of a man's wives being willed to his heir. The obligation to furnish support has been legally recognized in all civilized communities.

Guardianship of Children. —Guardianship of her children is seemingly the most natural right that a woman could claim, but even in the time of Rome's prosperity, the father could still sell his children into slavery. (Letourneau, “Property,” pp. 259-75.) This extreme power was gradually reduced, both legally and in actual practice.

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BEGINNINGS OF MODERN CHANGES.

Modern Progress. —One generation cannot share in the life experiences of more than the generation immediately preceding and succeeding. Except in cases affecting one's immediate family, the wrongs our grandmothers suffered are vague tales to us. So this generation fails to appreciate the bitterness of woe caused many a woman in times past by the laws and customs that controlled her legal status and social condition. Volumes could be filled with cases of injustice out of the property laws. Here is one: A Connecticut woman, daughter of a wealthy family, had property through her father at her marriage, which remained in her husband's care. After a few years the wife was stricken with rheumatism, and at the same time the husband with typhoid fever. He failed rapidly, and never doubting that his wife would not long outlive him, made a will, leaving her the use of a relatively small sum of money during her life, and giving the rest of the property, all personal, and including his wife's marriage portion, to his own brothers. The wife lived for forty years, a rheumatic cripple, after her husband's death. There were no children, and the income left the widow was insufficient to care for her in her helpless condition. After much difficulty, the trustee

of the property obtained legal permission to expend for her benefit the principal of the sum left for her maintenance, and when that was exhausted, the brothers-in-law having been appealed to vainly, the only means by which the widow could be provided for was by permitting her to become a charge on the town, which then sued the brothers-in-law, and so secured a meagre support for the woman whose rightful property was legally held by others, while she was forced to be a town charge. That all women did not suffer hardships because of these unjust laws, only proves that individuals are often better than the laws, which never anticipate but always follow public sentiment. Kindness 12 and genuine respect and affection often may have prompted a fair stewardship of the wife's property, but from the time marriage by dowry was instituted in early Greece until the middle of this century, no law was enacted to protect a wife's property from her husband's misappropriation. He was supposed to use it wisely for the care of the family, but if he did not the tradition of the Roman *jus utendi et abutendi,* —the right of use and abuse,—was strong enough to protect him.

Property Rights. —A realization of the abstract injustice of the laws governing the property of married women, as well as the moral awakening that accompanied the anti-slavery agitation, led to the first organized effort, in the history of the race, among women, to improve their legal status. This was part of the result of the Seneca Falls Convention in 1848. Previously to this Judge Hertell, of New York, in 1836, made an effort in the state legislature to alter the law. It was twelve years afterward that the first changes were made in these laws in New York. But the agitation was begun in nearly every state. It was carried on mainly by women, but also by some men, who, as fathers, were dissatisfied to let the property designed for the daughter hazard the monopoly or dissipation of a son-in-law. The changes came gradually. Freedom from liability for her husband's debts, power to lease, mortgage and sell, to make contracts, to sue and be sued independently of her husband, and various other conditions were generally embodied in different acts, until now in nearly every state and territory a married woman has as independent control of her property as has her husband of his, except for his right of curtesy, which partially corresponds to the wife's right of dower. The right to make a will or personal property was often granted before any other property right; the right to control her own wages often last, and this has not been granted in every state yet. The changes thus secured in 13 fifty years by organized effort, compare most advantageously with the gains secured by women during centuries of the slow growth. It is undeniable, however, that many men opposed vigorously all efforts to enlarge the property rights of married women. The official journals of legislative debates on these amendments are surprising reading to-day. Some women, also, indignantly protested against the proposed changes as indicating distrust of their husbands.

Support. —In the matter of the wife's right to support, some states have recently passed statutes making non-support a misdemeanor, and establishing means whereby if a man has property a portion can be secured for the support of his wife and children, or giving the court power to compel

the husband to pay a reasonable amount regularly to his wife. In some states also, a wife, in case of non-support, can sue for alimony without divorce.

Guardianship .—Equal guardianship with the father of the minor children is one of the rights of women that is not yet generally secured. Though the power vested in the father was not uniformly abused, many cases of cruelty to mothers as well as children have occurred, especially through forced apprenticeship and testamentary disposition.

Education .—Increased opportunities for educational has been a most important element in contributing to the position of social equality now being generally accorded women. This has been noticed by Mr. Bryce in his “American Commonwealth,” vol. 2, p. 594, as more marked and general in the United States than even in England. In the United States, high schools were not open to girls until about the beginning of this century. In 1790 girls were permitted to go for two hours in the afternoons in summer, providing there was room by the 14 absence of boys. The higher education for women began by the foundation of Oberlin College in 1833, which was opened for men and women, both white and colored. Mt. Holyoke Seminary was founded in 1837, and since then wider and wider opportunities for study and investigation have been steadily accorded to women. In Europe, the gymnasia, or high schools, of Germany are still closed to girls, excepting three recently opened for girls exclusively. Some universities in almost every country admit women, though they do not all yet grant women degrees. As in the case of the laws governing the property rights of married women, the gain has been most rapid since women themselves have claimed opportunities for education.

Age of Consent. —The laws referring to the age of protection for girls show marked progress in the last twelve years. The common law of England established that a girl of ten, or sometimes twelve, had sufficient maturity and experience to be able to fully protect herself, and this was originally the law of our states. In 1885 Mr. William T. Stead published an article in the *Pall Mall Gasette,* on the crimes committed against young girls in London. At that time Oregon was the only state where the age was over twelve. Gladstone and others in England secured the passage of a law raising the age there to sixteen. In this country the New York Committee for the Prevention of State Regulation of Vice, the Woman's Christian Temperance Union, the White Cross Society, different Suffrage Association, and many individual workers turned their attention to these laws, and by vigorous work secured amendments in many states, raising the age two or more years.

Political Equality. —The idea of the political equality of men and women was reached and expressed unequivocally many times before the Convention at Seneca Falls, in 1848. Plato among the Greeks, Musonius in Rome, Cornelius Agrippa, Ruscelli and 15 Anthony Gibson, in the sixteenth century; Paul Ribera, De Costa and Count Ségur later; Condorcet, Mary Wollstoncraft and Margaret Brant, of

Maryland, at the close of the eighteenth century, are among those who left recorded their belief in the justice and advisability of granting women the same political rights held by men. In the earlier years of our own century the number of those who shared these beliefs increased, until there were sufficient to warrant the beginning of an organized effort to secure by law and constitutions the changes they advocated as individuals. The year 1848 marks the beginning of this organized movement. How much has been secured through organization in the short period of fifty years is shown in the two tables of America and Foreign Suffrage, and contrasts pointedly with the unnumbered centuries of legal subjection, as a physical and intellectual inferior, submitted to by women. Virtual descendants of the women who fifty years ago protested against controlling their own property, though willing to exercise that right since it is secured to them, now protest against the extension of the suffrage to women.

Conclusion. —In reviewing in detail the earlier status of woman, the amount and kind of injustice, suffering and degradation through which she has undeniably passed are appalling, and the question is inevitably raised of its necessity. The student of woman's position must bear in mind that in the primitive condition of the race, physical force was the determining element, and that the ordinary virtues and feelings regarded as essentials of human nature to-day once existed only potentially. If man was to advance above the plane of the higher animals it was necessary that these qualities should be developed, and they could only be developed in the hard school of experience. Character is perfected and exalted through suffering. Self-control and the unselfish virtues have come into human life chiefly through woman's love and self-sacrifice. 16 Man could not be just until he had learned to recognize injustice. Woman's sacrifice and degradation have been the indirect means of the moral and spiritual elevation of the race. From the position of an absolute chattel, without property or right, woman has slowly and painfully raised herself in her own self-respect, and finally in the respect of man to a position of equality with him, and as each reaches this plane, together will they work most effectually for the further amelioration of the mistakes of society.

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Second Chapter.PROPERTY RIGHTS OF MARRIED WOMENIN THE UNITED STATES.-INTRODUCTORY.

As has been previously explained, the common law of England is the basis of the law in most of our States. Under the common law the husband and wife were legally one, the wife's individual legal existence and responsibility being merged in the husband. The presumption that the husband was the superior was the foundation of all such laws and he only was regarded as capable of caring for the property and deciding all matters of importance. He was expected to furnish support for the

family, but if the wife possessed property it was deemed just that it should pass into the husband's control, on the expectation that it would be used for the family. When it was not so used the wife had no redress. If she earned wages, they were assumed to go toward her support, and were in all cases due to the husband and subject to his claim. These conditions were all the natural remnants of the absolute authority possessed by men over women in earlier times, and there still existed the correlative obligation of responsibility for torts and crimes committed by the wife. By Roman law the father was likewise responsible for crimes committed by his children or slaves. The last vestige of his extreme authority over his children is seen in the preference still generally given the father as guardian. As the married woman's individuality came to be recognized sufficiently to permit her to control her own property, she rose also in the matter of civil responsibility, and is now generally accountable personally 18 for her actions. New Mexico alone retains a statute making the husband liable for the wife's torts, that is, injuries done to the person or property of another.

In every state and territory a married woman can now make a will of both real and personal property. Curtesy and dower are inherited from the common law. Generally curtesy is conditioned upon the birth of a living child, and is the husband's right to the personal property and the life use of the real estate of the wife, at her death; while dower is the wife's right to the life use of one-third of the real estate of her deceased husband, and generally one-third also of the personal estate. The tendency of modern legislation is to abolish curtesy and dower, and to make the claims of the surviving husband or wife upon the estate of the other equal. In some of the southern and western states that have followed the civil law instead of the common law, curtesy and dower have never obtained. In these, generally, both husband and wife can retain separately all property owned at the time of the marriage, and all that is received afterward by gift or will. But all acquired by either in any other way after marriage is community property, and though in the husband's control, is subject to the same claim from either on the death of the other. This provision makes a wife's wages not her own. In Louisiana and Texas there has been no statutory change, and wages are community property and in the husband's control. In a number of states special acts have granted the wife control of her wages under certain conditions. In Arizona, California, Idaho, Oklahoma, North and South Dakota, they are only her own if she is living separate from her husband; in Georgia, Montana, Nevada, North Carolina, Oregon and Virginia, only if she is separate or is a registered free trader; in MIssouri, only if she is not supportd by her husband, and in Tennessee, only if she has been permitted by her husband to receive and retain them. (Grayson's Code, 1894.) Thus there are sixteen states where 19 the married woman has not yet secured full legal control of her wages. Nevada furnishes a unique example of masculine legislative magnanimity, having a recently as 1873 enacted that “her earnings are the wife's if her husband has allowed her to appropriate them to her own use, and it is deemed a gift from him to her.” Regarding other property there are five states, Florida, Idaho, Louisiana, Tennessee and Texas, where the husband has control of the wife's property, and

in three more, Alabama, New Mexico and North Carolina, the wife's control is not full. In some of the western states it is wiser, and often necessary, to have the wife's separate property listed and recorded to secure it absolutely for her own use.

In the following table it has been the intention to give the earliest date when the married woman secured full and absolute control of her property. In many cases, earlier enactments gave only partial control. Where two dates are given, the first is that of the passage of the bill and the second the date when it went into effect. When the special act was not found, the date has been given of the earliest compiled laws that contains the larger power. The name “code” is used uniformly for Revised Statutes, Compiled Laws, General Laws, etc., meaning always the compilation of the year given.

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Table I.

PROPERTY RIGHTS OF MARRIED WOMEN.

STATE. CONTROL OF PROPERTY. POWER TO WILL PROPERTY. CONTROL OF WAGES.

Alabama Partial [1] , Feb. 18, 1895. Code of 1843. Feb. 28, 1887. Arizona Jan. 22, 1871. First code, 1864-71. Feb. 19, 1881. Partial [2] Arkansas Constitution, 1874. Constitution, 1874. Constitution, 1874. California March 21, 1872. March 21, 1872. March 9, 1870. Partial [2] Colorado Nov. 7, 1861. Nov. 7, 1861. [3] Nov. 7, 1861. Connecticut April 20, 1877 [4] May session, 1809. April 20, 1877 [4] Delaware April 9, 1873. March 17, 1875. April 9, 1873. District of Columbia April 10, 1869. Code of 1857. April 10, 1869 [5] Florida In husband's control [6] Feb. 11, 1881. In code of 1891 [7] Georgia In code of 1882 [8] In code of 1882 [9] In code of 1882. Partial [10] Idaho In husband's control [11] In code of 1887. In code of 1887. Partial [2] Illinois Feb. 21, Apr. 24, 1861. March 3, 1845. March 24, 1869. Indiana April 16, Sept. 19, 1881. March 3, 1859. May 31, 1879. Iowa In code of 1873. In code of 1873. April 14, 1870. Kansas Oct. 31, 1868. Oct. 31, 1868 [12] Oct. 31, 1868. Kentucky March 15, 1894. March 15, 1894. April 11, 1873. Louisiana Only by agreement [13] In code of 1889. In husband's control [14] Maine “Since March 22, 1844.” In code of 1857. In code of 1857. Maryland Since June 12, 1860 [15] June 12, 1860 [15] May 13, 1882. Massachusetts May 5, 1855. May 5, 1855. [16] May 5, 1855. Michigan Feb. 13, 1855. By Constitution of 1850. Feb. 13, 1855. Minnesota March 5, June 1, 1869. March 6, June 1, 1869.

March 5, June 1, 1869. Mississippi In code of 1880 [17] In code of 1880. In code of 1880. Missouri June 11, 1889 [18] April 17, 1877. March 25, 1875. Partial [19]

1 By this act the wife's control is only partial, as the “personal property of the wife may be sold, exchanged, or otherwise conveyed and disposed of by the husband and wife, by parole or otherwise. If the husband is living separate from the wife without any fault of hers, or if he be of unsound mind, the wife may convey and dispose of such property as if she were sole.”

2 Her own only if the wife is living separate from her husband.

3 A wife cannot will from her husband more than one-half of her property without his written consent, but if he wills more than one-half from her she can claim a full half.

4 If married since then or if both parties have legally recorded their acceptance of the new law.

5 Wages not specified but included: “any property, real or personal, acquired in any way.”

6 An act of March 6, 1845, and the Constitution of 1868, made a wife's property her own, but it is still in her husband's control, nor can she compel him to account for rents, etc. By an act of May 31st, 1893, if the husband has been insane one year she may sell, convey and transfer without his signature.

7 By the Revised Statutes of 1881 she did not have control of her wages.

8 She is a feme sole as to her separate estate, except she cannot bind it to her husband's creditors.

9 Section 2410 makes the husband's consent necessary, but a note explains that his consent is not now necessary to the validity of a wife's will.

10 If living separate from her husband or if a free trader with his consent evidenced by notice in papers for one month.

11 The instrument by which the wife acquires the property may provide that the rents and profits are for her sole and separate use. The husband cannot mortgage or sell her property or the homestead without her signature, and if he wastes her property the wife may have it put in the care of a trustee by the court.

12 Neither husband nor wife can will more than one-half of his property away from the other without the other's consent.

13 All property not owned by the wife when she is married or given her in consideration of the marriage, or which is not brought in marriage by the wife, is called paraphernal and is subject to her own control. But unless the parties agree that there shall be no partnership between them, all her property when she marries is called her dowry, and becomes subject to the family expenses and the husband's management. In case she retains her own property by agreement, she is bound to contribute to family expenses and the education of the children in proportion to her fortune and that of her husband.

14 Community property.

15 As to property acquired since then.

16 A wife needs her husband's consent in writing to bequeath from him more than one-half of her personal property.

17 Common law disabilities are abolished in this code.

18 Her personal property is subject to debts for necessaries for herself or the family.

19 In codes of both 1879 and 1889 her wages are her own only if not supported by her husband.

21 Montana Jan. 12, 1872 [18.] March 7, 1887 [20.] Feb. 4, 1874. Partial [21.] Nebraska March 1, 1871 [22.] March 3, 1881. March 1, 1871. Nevada March 10, 1873 [23.] Feb. 27, 1873. March 10, 1873. Partial [24.] New Hampshire July 18, 1876 [25] July 4, Aug. 1, 1860. July 4, Aug. 1, 1860 [26] New Jersey March 25, 1852. April 2, 1873. March 27, 1874. New Mexico Territory April 2, 1884. Partial [27.] Jan. 12, 1852 [28.] April 2, 1884. New York March 20, 1860. April 25, 1867. March 20, 1860. North Carolina Jan. 29, 1849. Partial [29.] Feb. 12, 1872. Feb. 12, 1872. Partial [30.] North Dakota Jan. 12, 1866. Jan. 12, 1866. Jan. 13, 1871. Partial [31.] Ohio March 19, 1887 [32.] In code of 1835. In code of 1880. Oklahoma Territory Code of 1893 1890. Code of 1893. Partial [2.] Oregon Oct 21, 1878. Dec. 15, 1853. Oct. 21, 1878. Partial [33.] Pennsylvania April 11, 1848 [34.] April 11, 1848. April 3, 1872 [35.] Rhode Island May 26, June 1, 1893 [36.] Jan. 1856. May 26, June 1, 1893. [36.] South Carolina Jan. 27, 1870. Jan. 27, 1870. Dec. 24, 1887. South Dakota Jan. 12, 1866. [37.] Jan. 12, 1866. Jan. 13, 1871. Partial [31.] Tennessee March 2, 1870. Partial [38.] March 2, 1870. In code of 1884. Partial [38.] Texas In husband's control. Jan. 28, 1840. In husband’ control. Utah Feb. 16, 1872. Feb. 18, 1876. Aug. 1, 1884 [39.] Vermont Nov. 26, 1884 [40.] Nov. 15, 1847. Nov. 19, 1888 [41.] Virginia April 4, 1877. In code of 1849. April 4, 1877. Partial [42.] Washington Nov. 14, 1879. Nov. 14, 1879. Nov. 14, 1879. West Virginia Feb. 16, 1893. March 2, 1868. Feb. 16, 1893 [43.] Wisconsin Feb. 1, 1850. March 14, 1859. March 25, 1872. Wyoming Dec. 4, 1869. Dec. 4, 1869. Dec. 4, 1869.

2 Her own only if the wife is living separate from her husband.

18 Her personal property is subject to debts for necessaries for herself or the family.

20 She cannot deprive her husband of more than two-thirds of her real or personal estate without his written consent, but the claims of each upon the estate of the other are equal.

21 If a declaration is recorded that she is a sole trader and which makes her also liable for the support of her children.

22 An act of March 31st, 1887, made such of the wife's property that is not exempt by law from attachment, subject to the husband's debts for necessaries for herself and family if the husband has no property of his own to be levied against.

23 If a list of her property is legally filed with the county recorder.

24 By an act of Feb. 6th, 1867, if she has advertised as a sole trader for four weeks; and the act of 1873 states that “her earnings are the wife's if the husband has allowed her to appropriate them to her own use, and is deemed a gift from him to her;” or if she is living separate from her husband she controls them.

25 Before this a married woman could not make contracts nor sue or be used.

26 “All property received by her not paid for by the property of her husband.”

27 She needs her husband's consent to make contracts and he is liable for her torts still.

28 A man over fourteen and a woman over twelve may make a will.

29 By this act the wife's real property was secured from her husband's debt and from sale without her consent, but the code of 1883 stipulates that if the husband receives the income of her separate property and she offers no objection, he cannot be made liable to account for his use of it for more than one year previous to the date of the complaint or her death. By an act of March 11th, 1889, the husband is required to list the property of his wife “in his control.”

30 If a free trader by having her husband's written consent filed, or if separated from him or abandoned by him.

31 If her husband does not support her or she is living separately.

32 Before this a wife could not give a lease for over three years without her husband's consent.

33 If registered as a sole trader, fee one dollar.

34 Re-enacted more satisfactorily, June 8th, 1893.

35 “If she presents a petition under oath to the court of common pleas [of her residence] that she intends claiming the benefit of this act.”

36 Until this date a married woman could not “transact business as a trader.”

37 A list of the wife's property should be recorded in the office of the county register.

38 She can only give a deed or conveyance if she is examined privately before a chancellor, circuit judge or county clerk, and providing she registers a copy of the will giving her the property, or a schedule of her property, in her own county. She may have her property in her own control by a marriage contract. “Earnings and savings of the wife become her separate estate (the same being the fruits of her own toil and frugality) without any express gift or contract of the husband where she is permitted to receive and retain them and to loan and invest them in her own name and for her own benefit,” Grayson's Code, 1894.

39 By this act her wages were made exempt from execution for her husband's debts.

40 Before this she could not make contracts unless a trader.

41 By a previous act, passed in 1870, she could only control her wages if her husband did not support her and she filed a petition to the county court.

42 If a sole trader.

43 By the code of 1884 she could only control her wages if living separate from her husband. By an act of March 14th, 1891, any married woman could be a trader, but she could not employ her husband or anyone else as her agent, nor have a partner. The act of 1893 removed these restrictions.

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Notes to Table I.

1 By this act the wife's control is only partial, as the “personal property of the wife may be sold, exchanged, or otherwise conveyed and disposed of by the husband and wife, by parole or otherwise. If the husband is living separate from the wife without any fault of hers, or if he be of unsound mind, the wife may convey and dispose of such property as if she were sole.”

2 Her own only if the wife is living separate from her husband.

3 A wife cannot will from her husband more than one-half of her property without his written consent, but if he wills more than one-half from her she can claim a full half.

4 If married since then or if both parties have legally recorded their acceptance of the new law.

5 Wages not specified but included: “any property, real or personal, acquired in any way.”

6 An act of March 6, 1845, and the Constitution of 1868, made a wife's property her own, but it is still in her husband's control, nor can she compel him to account for rents, etc. By an act of May 31st, 1893, if the husband has been insane one year she may sell, convey and transfer without his signature.

7 By the Revised Statutes of 1881 she did not have control of her wages.

8 She is a feme sole as to her separate estate, except she cannot bind it to her husband's creditors.

9 Section 2410 makes the husband's consent necessary, but a note explains that his consent is not now necessary to the validity of a wife's will.

10 If living separate from her husband or if a free trader with his consent evidenced by notice in papers for one month.

11 The instrument by which the wife acquires the property may provide that the rents and profits are for her sole and separate use. The husband cannot mortgage or sell her property or the homestead without her signature, and if he wastes her property the wife may have it put in the care of a trustee by the court.

12 Neither husband nor wife can will more than one-half of his property away from the other without the other's consent.

13 All property not owned by the wife when she is married or given her in consideration of the marriage, or which is not brought in marriage by the wife, is called paraphernal and is subject to her own control. But unless the parties agree that there shall be no partnership between them, all her property 23 when she marries is called her dowry, and becomes subject to the family expenses and the husband's management. In case she retains her own property by agreement, she is bound to contribute to family expenses and the education of the children in proportion to her fortune and that of her husband.

14 Community property.

15 As to property acquired since then.

16 A wife needs her husband's consent in writing to bequeath from him more than one-half of her personal property.

17 Common law disabilities are abolished in this code.

18 Her personal property is subject to debts for necessaries for herself or the family.

19 In codes of both 1879 and 1889 her wages are her own only if not supported by her husband.

20 She cannot deprive her husband of more than two-thirds of her real or personal estate without his written consent, but the claims of each upon the estate of the other are equal.

21 If a declaration is recorded that she is a sole trader and which makes her also liable for the support of her children.

22 An act of March 31st, 1887, made such of the wife's property that is not exempt by law from attachment, subject to the husband's debts for necessaries for herself and family if the husband has no property of his own to be levied against.

23 If a list of her property is legally filed with the county recorder.

24 By an act of Feb. 6th, 1867, if she has advertised as a sole trader for four weeks; and the act of 1873 states that “her earnings are the wife's if the husband has allowed her to appropriate them to her own use, and is deemed a gift from him to her;” or if she is living separate from her husband she controls them.

25 Before this a married woman could not make contracts nor sue or be used.

26 “All property received by her not paid for by the property of her husband.”

27 She needs her husband's consent to make contracts and he is liable for her torts still.

28 A man over fourteen and a woman over twelve may make a will.

29 By this act the wife's real property was secured from her husband's debt and from sale without her consent, but the code of 1883 stipulates that if the 24 husband receives the income of her separate property and she offers no objection, he cannot be made liable to account for his use of it for more than one year previous to the date of the complaint or her death. By an act of March 11th, 1889, the husband is required to list the property of his wife “in his control.”

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42 If a sole trader.

43 By the code of 1884 she could only control her wages if living separate from her husband. By an act of March 14th, 1891, any married woman could be a trader, but she could not employ her husband or anyone else as her agent, nor have a partner. The act of 1893 removed these restrictions.

INTESTATE ESTATES.

ALABAMA.—Dower alone prevails. If there are no lineal descendants, and the estate is not insolvent, the dower interest is one-half of the real estate for the widow's life; but if it is solvent, one-third only. If there are lineal descendants, her dower is one-third whether the estate is solvent or not. If a husband dies intestate, his widow, if there are no children, is entitled to all of his personal estate; if there is but one child she is entitled to half; if more than one and not more than four, to a child's part; and if more than four children, to one fifth. “If any woman having a separate estate survive her husband, and such separate estate, exclusive of the rents, incomes and profits, is equal to or greater in value than her dower interest and distributive share in her husband's estate, estimating her dower interest in his lands at seven years’ rent of the dower interest, she shall not be entitled to dower in, or distribution of her husband's estate. If her separate estate be less in value than her dower, so much must be allowed her, as with her separate estate, would be equal to her dower and distributive share in her husband's estate, if she had no separate estate. If a wife dies intestate, her

husband is entitled to one-half of the personalty of her separate estate absolutely, and to the use of the realty during his life, unless he has been legally divested of all control over it by a decree of a court of chancery.

ARIZONA TERRITORY.—Curtesy and dower have been abolished by territorial legislation, but in 1887 Congress passed an act granting a widow dower in all the territories. If either husband or wife dies intestate leaving descendants, of the separate property of either the survivor has one-third of the personalty, and one-third for life of the realty. If there are no descendants, the survivor has all of the personal estate, and one-half of the real 26 estate for life; if there are neither descendants or father or mother of the decedent, the survivor has the whole estate. The community estate goes entirely to the survivor if there are no descendants, otherwise one-half goes to the survivor, in either case charged with the community debts. Section 1,099 of the code of 1887 reads: "If the widow has a maintenance derived from her own property equal to the portion set apart to her by the preceding sections of this article [two thousands dollars,] the whole property so set apart other than her half of the homestead must go to the minor children." If the homestead was selected from the community property it vests absolutely in the survivor. If selected from the separate property of either, it vests in that one or his heirs. The homestead cannot exceed five thousand dollars in value.

ARKANSAS.—Dower and curtesy both exist, the letter only if the wife dies intestate and there has been issue born alive. If there are children, the wife is entitled to one-third of the realty for life, and one-third of the personalty absolutely. If there are no children living, the widow shall be endowed in fee simple of one-half of the real estate, where it is a new acquisition and not an ancestral estate; and one-half the personal estate, absolutely, as against collateral heirs, but as against creditors, she shall be endowed with one-third of the real estate in fee simple if a new acquisition and not ancestral, and one-third of the personal property absolutely. Provided, if the real estate of the husband be an ancestral estate, she shall be endowed in a life estate of one-half of said estate, as against collateral heirs, and one-third as against creditors. If either husband or wife die intestate, and there are no descendants, father, mother nor their descendants, or any paternal or maternal kindred capable of inheriting, the whole estate goes to the surviving wife or husband, both as to real and personal property.

27

CALIFORNIA.—Neither curtesy nor dower obtains. If the decedent leave a surviving wife or husband and only one child, or lawful issue of one child, the separate estate goes, in equal shares, to the surviving wife or husband and child, or issue of such child. If there be a surviving wife or husband and more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the surviving wife or husband. If there is no issue, one-half the estate goes to the surviving wife or husband. If there is a surviving wife or husband, but neither issue, father,

mother, brother nor sister, the whole estate goes to the surviving wife or husband. Upon the death of the wife the entire community property, without administration, belongs to the husband, except such part as may have been set apart for her support by judicial decree, which is subject to her testamentary disposition, or passes to her heirs, exclusive of her husband, if she leaves no will. Upon the death of the husband, one-half of the community property goes to the wife, subject to one-half of the debts.

COLORADO.—Neither curtesy nor dower obtains. Subject to the payment of debts, the surviving husband or wife, if there are no children or descendants of children living, receives one-half of the entire estate, real and personal; if there is no child or descendants of any child living, the entire estate goes to the survivor. A homestead not exceeding two thousand dollars in value may be retained by the surviving husband or wife, or the minor children.

CONNECTICUT.—A woman married before April 20th, 1877, who with her husband has not legally accepted the conditions of the law of that date, and who is not otherwise legally debarred, may claim common law dower—a life interest in one-third of the real estate of which her husband died possessed, and one-third absolutely of the personal estate if there is issue living, otherwise, one-half. Under the same conditions the husband can claim as tenant 28 by curtesy the whole of his wife's personal estate and the use for his life of her real estate, if she died intestate. By the provisions of the new law, the interest of the surviving husband or wife in the estate of the other, is the same, viz., if there is no will, one-third absolutely of the whole estate; and if there are no children or their representatives, "all of the estate of the decedent absolutely to the extent of two thousand dollars, and one-half absolutely of the remainder of said estate."—Law of June 22d, 1895.

DELAWARE.—Dower and curtesy both obtain. If there is any child or lawful issue of any child living, the widow has a life interest in one-third of the real estate, and one-third absolutely of the personal estate. If there is no child nor descendants of any child living, the widow has a life interest in one-half of the real estate, and one-half absolutely of the personal estate. If there are neither descendants nor kin, brothers, sisters, their descendants, father and mother,—the widow has the entire estate for her life, and the personal estate absolutely. If there shall have been a child of the marriage born alive, whether living or dead at the death of the wife, the surviving husband, as tenant by the curtesy, has her entire real estate during his life, and the whole of her personal estate absolutely, subject to legal demands and charges. If there has not been a child born alive, the husband has a life interest in one-half of her real estate, but the whole of the personal estate also.

DISTRICT OF COLUMBIA.—Dower and curtesy obtain. The widow's dower's is one-third for life of the real estate, and one third of the personal estate absolutely if there is a child or if there are any descendants living. If there is no issue or descendants of any, but father, mother, brother, sister, or

descendants of any, the widow has one-half the personal estate. If none of these, the widow may have all of the personal estate, and all of the real estate if there is no kindred.

29

FLORIDA.—Dower alone obtains. If a husband dies intestate or the will makes no provision for his widow, or one not satisfactory to her, she may have dower in one-third of the real estate for her life, and if there are no children or but one child, she may have one-half of the personal estate absolutely, and if more than one child, one-third part of it absolutely, free from liability for the husband's debts. If there are no children, and the husband is intestate, the wife may take the whole estate, or dower, at her election. If a wife dies intestate, and the husband but no descendants survive her, the while of her estate goes to the husband; but if there are children or their descendants, the estate, both real and personal, descends in parcenary to them.

GEORGIA.—Dower obtains, but not curtesy. If a husband dies intestate, leaving a wife and issue, the wife may elect to take dower—a life interest in one-third of the real estate,—or she may take a child's share of the whole estate absolutely, unless the shares exceed five number, in which case she is entitled to one-fifth. If there are no lineal descendants, and the husband dies intestate, the wife is the sole heir. Likewise, if there are no lineal descendants and the wife dies intestate, the husband is the sole heir. If there are surviving child, children or descendants of any child, the husband and children have equal shares of the estate.

IDAHO.—Neither dower nor curtesy exist. If either husband or wife die intestate, of the separate estate of either, the surviving wife or husband has one-half if there is but one child, or lawful issue of one child living. If there is more than one child living, or one child and the lawful issue of one or more deceased children, the surviving wife or husband receives one-third. If the decedent leaves a surviving wife or husband, but neither issue, father, mother, brother or sister, the whole estate goes to the survivor. Upon the death of the wife the entire community property belongs to the 30 husband, without administration, except such portion as may have been set apart for her maintenance by judicial decree, and which in the absence of any will of hers, descends to her heirs exclusive of her husband. Upon the death of the husband, one-half of the community property goes to the wife; the other half is subject to his testamentary disposition, or in the absence of that goes equally to his descendants. If he leaves neither will nor descendants, it is subject to distribution in the same manner as his separate property.

ILLINOIS.—Curtesy was abolished July 1st, 1874. The surviving wife or husband shall be endowed of the third part of all the real estate of which the other dies possessed. If a husband or wife dies intestate, leaving surviving child, children, or descendants of such child or children, the surviving wife or husband shall receive also one-third of the personal estate absolutely. If there are no lineal

descendants, the widow or widower has absolutely one-half of the real estate and the whole of the personal estate. If there are no descendants nor kindred, the whole estate goes to the surviving widow or widower.

INDIANA.—Dower and curtesy are abolished. If a husband die, testate or intestate, leaving a widow, one-third of his real estate shall descend to her in fee simple, free from all demands of creditors; provided, however, that where the real estate exceeds in value ten thousand dollars, the widow shall have one-fourth only, and where the real estate exceeds in value twenty thousand dollars, one-fifth only as against creditors. If a husband dies intestate and leaves a widow and one child only, the real estate is divided equally between them; the personal estate is divided equally if there are not more than two children; if there are more than two children the widow still has one-third of the personal estate. If a man has children living by a former marriage and none by a subsequent marriage, the wife in the last marriage can have only a life 31 interest in her share of her husband's state. If a wife die, testate of intestate, leaving a widower, one-third of her real estate shall descend to him, subject to its proportion of her debts contracted before marriage, also one-third of her personal estate. If a husband or wife die intestate, leaving no child, but father or mother, one or both, three-fourths of the entire estate goes to the widow or widower, unless it does not exceed one thousand dollars, in which case it all goes to the widow or widower. If there are neither children, father or mother, the entire estate goes to the widow or widower. If there is a will, either husband or wife may elect to take under the will or under any statutes of the state, within ninety days after the will has been admitted to probate.

IOWA.—Dower and curtesy are abolished. The surviving husband or wife is entitled to one-third in fee simple of both real and personal estate of the other at his or her death. If either die intestate, leaving no issue, one-half of the estate goes to the survivor, the rest to his or her parents, one or both; or if they are both dead, to their descendants. If there are none such the whole estate goes to the surviving husband or wife. If there should have been more than one wife or husband, the half portion is equally divided between the husband or wife living and the heirs of those who are dead, or the heirs of all, if all are dead. Personal and real estate follow the same rules.

KANSAS.—Dower and curtesy were abolished in 1868. If either the husband or wife dies intestate, one-half of the estate, both real and personal, goes to the survivor; if there is no issue left, the whole of the state goes to the survivor. A homestead of one hundred and sixty acres of farm land, or one acre within town or city limits may be reserved free from debts for the occupancy of the survivor; if the widow marries again, or when all the children have attained majority, the homestead may be divided, one-half to the 32 widow and the rest to the children. If she dies before her husband, he has

a right of occupancy, but it descends to her heirs. Neither can will more than one-half of his property away from the other without the other's consent.

KENTUCKY.—By an act of March 15th, 1894, the interest of the surviving husband or wife in the estate of the other is made the same, one-third life interest in the real estate, if such right has not been barred, forfeited or relinquished; and an absolute estate in one-half the personalty beyond the debts. If a husband or wife dies intestate, and leaves neither descendants nor kindred, the whole estate goes to the surviving wife or husband. If either dies intestate without descendants living, any real estate that was a gift from either the decedent's parents, returns to that parent, if he is living.

LOUISIANA.—There is neither dower nor curtesy. At the death of either husband or wife, the survivor is entitled to half the community property absolutely. If there are no descendants or ascendants, the survivor has a life estate in the other half. If issue is left, the survivor shall use as usufruct for life "so much of the share of deceased in such community property as may be inherited by such issue, until a second marriage is contracted." If a widow or widower having children marries again, he or she can give to such husband or wife, either by will or by gift during life, only one-third of his or her property. If a wife brings no dowry, or one inconsiderable in respect to the condition of the husband, if either husband or wife die rich, leaving the survivor in necessitous circumstances, the latter has a right to take out of the succession of the deceased what is called the marital portion; that is, one-fourth of the succession in full property if there be no children, and the same portion in usufruct only when there are three or a smaller number of children; and if there be more than three children, the husband 33 or wife receives only a child's share in usufruct including any legacy left by the decedent. The husband's or wife's separate property in the husband's care, is also divided equally like the community on the dissolution of the marriage by death. If the husband dies poor, the widow takes precedence over all creditors to the amount of one thousand dollars. A wife may renounce the partnership and thus free herself from the community debts, but also forfeits all share of the property, and receives instead her dotal and extra dotal effects. A wife may petition for a separate management of her dowry if deemed necessary to ensure its safety.

MAINE.—Dower and curtesy abolished March 26th, 1895. The interest of the husband or wife in the real estate of the other, dying intestate, is made the same, viz., if there is issue living, one-third; if no issue, one-half, and if neither issue nor kindred, the whole. The same provisions hold regarding the personal estate of each. Each has the right to claim the statutory share in preference to the provision made by will, if it is done within six months.

MARYLAND.—Dower and curtesy both obtain. If a husband dies intestate, his widow has a life interest in one-third of his real estate, unless there are neither descendants nor kindred, in which case she would have the entire estate. If there are descendants, the widow has one-third of the

personal estate; if there are no descendants, but father, mother, brother or sister of the decedant, or any descendants of such brother or sister, the widow has half of the personal property; if none of these, the widow has all of the personal estate. If a wife dies intestate, her husband has a life estate in all of her property, and if she leaves no children, he has a life estate in the realty and the personalty absolutely.

MASSACHUSETTS.—Dower and curtesy both obtain. If a husband dies intestate, and there is living issue, the widow receives one-third for life of the real estate and one-third of the personal 34 estate. If there is no issue living, the widow shall be entitled to his real estate absolutely to an amount not exceeding five thousand dollars in value, and to a life interest in one-half of the rest of his real estate, or at her preference and in accordance with legal requirements, her dower in his real estate other than that taken by her in fee. Of the personal estate she shall be entitled to the whole up to the amount of five thousand dollars, and to one-half the excess of the residue above ten thousand dollars. If there are no kindred of the husband, the widow takes the whole of his real estate in fee. If a wife dies intestate and there has been issue born alive the widower has a life estate in her realty. If there was no issue, the widower has a life interest in one-half of her real estate. If she leaves no issue living, he shall take her real estate absolutely to an amount not exceeding five thousand dollars in value, and a life interest in her other real estate. If she leaves no kindred he takes all of her real estate absolutely. In any case he takes all her personal estate absolutely, if she dies intestate.

MICHIGAN.—Dower only obtains; being the life use of one-third of the real estate of the husband. In case there is no issue, and either husband or wife dies intestate, one-half of the real estate goes to the survivor; if there is neither issue, father, mother, brothers, sisters, or children of brothers or sisters, all the real estate goes to the survivor. If a husband dies intestate one-third of the personal property goes to the widow, unless if there be but one child or the issue of one child living, the widow receives one-half. If there is no child living, or only the issue of a deceased child, and the personal estate after the payment of debts, does not exceed one thousand dollars, it goes entirely to the widow; if it exceed the sum of one thousand dollars such excess shall be distributed, one-half to the widow, and the other half to the father of the deceased, if living; otherwise, equally to the mother, brothers, sisters, and 35 issue of any deceased brother or sister; if none of these the widow takes it all. If a wife dies intestate, one-third of her personal estate goes to her husband, if there are children living. If there be but one child or the issue of a deceased child surviving her, the husband has one-half the personal estate. If there be no child or issue of a deceased child surviving her, one-half goes to the husband and one-half to her father, if living; if he is dead, then one-half goes equally to her mother, brothers, sisters, and children of brothers and sisters deceased; if none of these, it all goes to the husband.

MINNESOTA.—Dower and curtesy abolished March 9th, 1875 If either husband or wife dies intestate, the survivor, if there is issue living, is entitled to the homestead for his life, and one-third of the rest of the real estate in fee simple, or by such inferior tenure as the deceased was possessed of, but subject to its just proportion of the debts. If there are no descendants, the entire estate goes absolutely to the survivor. The personal estate follows the same rules. If either husband or wife has wilfully and without just cause deserted and lived separately from the other for the entire year immediately prior to his or her decease, such survivor shall not be entitled to any estate whatever in any of the lands of the deceased.

MISSISSIPPI.—Dower and curtesy are abolished. If either husband or wife die intestate, without leaving children or descendants of any, the entire estate, real and personal, goes to the survivor. But if there are one or more children or descendants by this or a former marriage, the surviving wife or husband has a child's share of both real and personal estate.

MISSOURI.—Dower and curtesy both obtain. If there are any descendants living, the widow's dower is one-third of the real state and a child's share of the personal estate. If there are no descendants, the widow shall be entitled to all the real and personal 36 estate which came to the husband in right of the marriage, and to all the undisposed of personal property of her own which by her written consent came into the husband's possession, not subject to the payment of the husband's debts; and to one-half of the real and personal estate of the husband, absolutely, and subject to his debts. If there are any descendants by a former marriage, in lieu of dower, the widow may elect to take in addition to her real estate, the personal property in possession of her husband that came to him in right of the wife by means of the marriage, or by her consent in writing, subject to the payment of the husband's debts. If there are no descendants living the widow may elect to take one-third of his real estate for her life, discharged of debts, or according to the provisions above if there are no descendants. Or if there are descendants living, the widow in lieu of her one-third for life, may elect to take a child's share absolutely, subject to the payment of the debts. If any person dies intestate leaving neither descendants, father, mother, brothers, sisters, or descendants of brothers or sisters, the entire estate, real and personal, goes to the surviving husband or wife. A homestead may also be reserved for the widow. If a wife dies leaving no descendants, her widower is entitled to one-half of both real and personal estate absolutely, subject to her debts. Act of March 2, 1895.

MONTANA.—Dower has been retained but curtesy has been abolished, and the claims of husband and wife on the estate of the other made equal. If there is only one child, or the lawful issue of one child, the surviving husband or wife receives one-half of the entire estate, real and personal. If there is more than one child, or one child and the lawful issue of one or more deceased children, the husband or wife receives one-third. If there is no issue living, the surviving husband or wife receives

one-half the estate, unless there is neither father, mother, brother, sister or their descendants, 37 when the husband or wife takes all the property. An act of March 6th, 1891 repealed the provision that "a married woman may be an executrix, administratrix, guardian or trustee, and bind herself and the estate she represents without any act of assent on the part of her husband."

NEBRASKA.—Dower and curtesy both obtain. The widow is entitled under any circumstances to the life use of one-third of the real estate, and, if the husband died intestate, after payment of debts, charges, etc., to the same share of the personal estate that a child receives. If there is no issue living the widow takes the life use of the entire estate, real and personal; if there is no kindred of the husband, the widow has the estate absolutely. If a wife dies, leaving no issue, the husband has her real estate during his life; but if she leaves issue by a former husband, such issue shall take so much of the estate as has not come to her as a gift from her surviving husband, and if she leaves issue by surviving husband only, or by both former and surviving husbands, then the surviving husband shall have a life interest in one-third of the real estate of his deceased wife. If the wife dies intestate, after payment of debts, her personal estate is distributed in the same way as her real estate.

NEVADA.—Dower and curtesy are both abolished. On the death of the husband one-half the community property goes to the wife; if he dies intestate and leaves no issue, all the community property goes to the wife, and without administration if she secures the payment of the debts to the satisfaction of the creditors. If either husband or wife dies intestate as to their separate estate, and there is one child or lawful issue of one child living, the surviving wife or husband receives one-half the estate. If there is more than one child living, or one living and the lawful issue of one or more deceased children, the survivor takes one-third. If there is no issue living, the survivor takes one-half, providing there is either 38 father, mother, brother or sister of the decedant living; if not, the surviving wife or husband takes the whole estate. The community property is in the control of the husband, and upon the death of the wife belongs without administration to him, unless he has abandoned his wife without such cause as would secure him a divorce, in which case, half of the community property is at her testamentary disposition, or in absence of such disposition descends to her heirs, exclusive of her husband. To ensure her separate property from being claimed as part of the community property, she must keep it inventoried and legally recorded. The life use of a homestead not exceeding five thousand dollars in value may also be retained by the surviving husband or wife.

NEW HAMPSHIRE.—Dower and curtesy both obtain. The widow of a person deceased, testate or intestate, by waiving the provisions of his will in her favor, if any, shall be entitled, in addition to her dower and homestead right, to the following portion of his personal estate, remaining after the payment of debts and expenses of administration: one-third part thereof if issue survives; and one-

half thereof if no issue survives. If the widow waives the provisions of the will and also releases her right of dower and homestead, she shall be entitled instead, in fee, to the following portion of the real estate, after payment of debts and expenses of administration: one-third part if he leaves issue by her surviving him; and one-half part if he leaves no issue surviving him.

The husband of a person deceased, testate or intestate, by waiving the provisions of the will in his favor, if any, shall be entitled in addition to his estate by the courtesy and homestead right, if any, to the following portion of her personal estate remaining after payment of debts and expenses of administration: one-third part, if she leaves issue surviving her; one-half part if she leaves no issue surviving her. If he waives the provisions of her 39 will and releases his estate by the curtesy and his homestead right, if any, he shall be entitled instead to the following portion of the real estate of his deceased wife, after payment of debts and expenses of administration: one-third part, to hold in fee, if she leaves issue by him surviving her ; one-third part to hold during life, if she leaves issue surviving, but not by him, and if he has no estate by the courtesy in her real estate; one-half to hold in fee if he leaves no issue surviving her. This waiver must in all cases be made in writing and filed in the probate office within one year of the decease of the husband or wife.

NEW JERSEY.—Dower and curtesy both obtain. If either husband or wife dies intestate and there are neither descendants nor kindred, the entire estate goes in fee simple to the survivor. If there are children, the widow has one-third of the personal estate and a life interest in one-third of the real estate. If there are no children she has one-half the personal estate.

NEW MEXICO TERRITORY.—Curtesy still obtains. One-half the community property goes to the wife whether the husband dies testate or intestate. In addition to this, the widow is entitled to one-fourth of the rest of the estate of the husband, "provided this deduction shall only be made when said property amounts to five thousand dollars, and the heirs be not descendants; although it may exceed this sum in the absence of the latter. Also from the property of the wife the fourth shall be deducted as the marital right of the husband, and upon the same conditions, should the husband without this aid remain poor." If there are no legitimate children surviving, the widow or widower shall be heir to all the acquired property of the marriage community.

NEW YORK.—Dower and curtesy still exist. The widow receives one-third of the real estate for her life, and after payment of debts, one-third of the personal estate, unless there are no descendants, 40 when she is entitled to one-half the personal estate, if her husband died intestate; and if there are neither descendants, parent, brother, sister, nephew or niece, she has the whole of the personal estate; but if there is a brother or sister, nephew or niece, the widow is entitled to one-half, and to the whole of the residue, if it does not exceed two thousand dollars; if the residue exceeds that sum, she shall receive two thousand dollars in addition to the one-half. The husband is entitled to

the same distributive share in the personal property of his wife, as she has in his property. In case there are neither descendants nor kindred the real estate descends according to the course of the common law.

NORTH CAROLINA.—Both dower and curtesy obtain. If there are neither descendants or kindred the widow is heir of the entire estate. If there are not more than two children, and the husband dies intestate, one-third of the personal estate goes to the widow; if there are more than two children, the widow shares equally with them; if there be no child or legal representative of a deceased child, one-half the estate goes to the widow, the other half going to the kindred of the deceased. If a wife dies intestate, her husband not only has the life estate in the real property, if there was issue born alive, but all of her personal estate, subject to her debts.

NORTH DAKOTA.—Dower and curtesy are abolished. If either husband or wife dies intestate, leaving only one child or the lawful issue of one child, the surviving wife or husband is entitled to one-half of both real and personal estate. If there is more than one child living, or one child and the lawful issue of one or more children, the survivor receives one-third the estate. If there is no issue living, the survivor receives one-half the estate; and if there is neither issue, father, mother, brother or sister, the whole estate goes to the survivor. A homestead may also be retained by the survivor.

OHIO.—Dower prevails, but curtesy has been abolished except for a man married before 1887, and regarding property owned by his wife before that date. Otherwise, either husband or wife on the death of the other, is entitled to one-third of the real estate for life. If either dies intestate and there are no children or their legal representatives living the real estate shall pass all to the survivor. If either dies intestate and there are no children, the widow or widower is entitled to all of the personal property, subject to the debts; if there are any children, or their legal representatives, the widow or widower is entitled to one-half of the first four hundred dollars, and to one-third of the remainder subject to distribution. A homestead not exceeding one thousand dollars in value may be reserved for a widow. An act of June 30th, 1894, allows a married woman to be an executrix and administratrix, and one of April 18th, 1893, to be a guardian.

OKLAHOMA TERRITORY.—Dower and curtesy are abolished. If either husband or wife dies intestate leaving only one child or the lawful issue of one child, the survivor receives one-half of both real and personal property. If there is more than one child or one child and descendants of one or more deceased children, the widow or widower receives one-third of the estate. If there is no issue living the survivor receives one-half; and if there is neither issue, father, mother, brother or sister, the

survivor takes the whole estate. A homestead may be occupied by the survivor until otherwise disposed of according to law.

OREGON.—Dower and curtesy both prevail. Curtesy is not conditional upon the birth of a living child. If either husband or wife dies intestate and there are no descendants living, the real estate shall descend to the survivor. If there is issue living, the widow receives one-half of the real estate and one-half of the personal estate; if no issue living she takes all of her personal property 42 also. The husband takes a life estate in all her real property, and all of the personal estate if there are no living descendants, half of it if there are.

PENNSYLVANIA.—Dower and curtesy both obtain. If there is issue living, the widow is entitled to one-third of the real estate for her life and one-third of the personal estate absolutely. If no issue living, but collateral heirs, the widow is entitled to one-half part of the real estate, including the mansion house, for her life, and one-half of the personal estate absolutely. If a wife dies intestate, the husband, whether there has been issue born alive or not, has a life estate in her real property, and all of her personal property absolutely. If there is neither issue nor kindred and no will the surviving husband or wife takes the whole estate.

RHODE ISLAND.—Dower and curtesy still obtain. The widow is entitled to one-third of the real estate, also one-third absolutely of the personal estate, if there is issue living. If there are no descendants nor paternal nor maternal kindred, and the husband or wife died intestate, the whole of the real estate goes to the survivor. If no issue survives, the widow takes half of the personal estate, and the husband takes all of his wife's personal estate if she dies intestate.

SOUTH CAROLINA.—Dower alone prevails. If either husband or wife dies intestate the other has an equal claim on the property. If there is one or more children, the survivor receives one-third of the real estate and the personal estate. If there are no lineal descendants, but collateral heirs, the survivor takes one-half of the entire estate. If there are no lineal descendants, father, mother, brother, sister, child of such brother or sister, brother of the half blood or lineal ancestor, the survivor receives two-thirds of the estate, and the other third goes to the next of kin. If there are none of these nor any kin, the survivor takes the whole estate.

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SOUTH DAKOTA.—Neither curtesy nor dower obtain. If either husband or wife dies intestate, leaving only one child or the lawful issue of one child, the estate goes in equal shares to the child and the surviving wife or husband. If there is more than one child, or one child and the lawful issue of one or more deceased children, one-third the estate goes to the surviving husband or wife. If there are no children living, one-half the estate goes to the husband or wife, unless there is neither father,

mother, brother or sister of the decedent living, when it all goes to the survivor. Either husband or wife is entitled to administer on the estate of the other. A home-stead not exceeding one hundred and sixty acres, or one-quarter of an acre in a town, may be reserved by either.

TENNESSEE.—Dower and curtesy both obtain. The widow of an intestate receives one-third of the realty unless there are neither descendants or heirs-at-law, when she takes it all in fee simple. Of the personal estate she takes a child's share, unless there are no lineal descendants, when she takes it all. If the wife dies intestate, the husband is entitled to a life estate in her realty, if there has been issue born alive, and to all of her personal estate.

TEXAS.—Neither dower nor curtesy exist. If there are any lineal descendants living, the surviving husband or wife shall have a life interest in one-third of the real estate and one-third of the personal estate. If there are no lineal descendants, the survivor has one-half of the real estate and the whole of the personal estate; if there are neither father, mother, brothers, sisters, or their descendants, the surviving husband or wife takes the whole estate, real and personal. Also half of the community property goes to the widow or widower, if there is one or more children, and the whole of it if there are no lineal descendants living. The widow may also retain a homestead not exceeding five thousand dollars in value, and a widower may do likewise. If either husband or wife dies intestate or becomes insane, and there are no living descendants 44 and the other party has no property, the community passes to the survivor without administration or guardianship of the estate of the insane spouse; if there are descendants the survivor has the exclusive management of the community property if he or she files an application for appraisement within four years of the death or establishment of the insanity. A woman loses this control if she remarries. If the insane person is restored to his mind an account must be rendered.

UTAH.—Neither curtesy nor dower exists. If either husband or wife dies intestate and there is one child or the issue of one child living, the widow or widower receives one-half of both real and personal property. If there is more than one child living, or one child and the issue of one or more deceased children, one-third of the estate goes to the survivor. If there is no issue living, one-half the estate goes to the survivor, unless there is neither father, mother, brother or sister living, when the widow or widower takes the whole estate.

VERMONT.—Dower and curtesy both obtain. If there is one or more children living, the widow has a life interest in one-third of the real estate, and one-third of the personal estate. The husband has the life use of all the real estate, if there has been issue born alive, and the same share of the personal estate that his wife would have had in his had she survived him. If no issue survives, either husband or wife surviving, may elect to waive curtesy and dower respectively, and will then be entitled to the whole of the estate absolutely, if it does not exceed two thousand dollars. If it exceeds that sum, the

widow or widower may have two thousand dollars and one-half of the remainder, unless there are no kindred, when the entire estate goes to the survivor. An act of November 1st, 1894, empowers married women to serve as executors, administrators, guardians and trustees.

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VIRGINIA.—Dower and curtesy both obtain. The wife has only a life interest in one-third the real estate, unless there are neither descendants, paternal nor maternal kindred, when she may claim all the real estate. Under the same circumstances the husband takes all her real estate. The widow is entitled to one-third of the personal estate, if there is living issue; if there is no issue by her, the widow shall be entitled absolutely to such of the personal property, after payment of debts and charges, as shall have been acquired by the intestate in virtue of his marriage with her prior to the fourth of April, 1877, and remain in kind at his death; she shall also be entitled, if the intestate leave issue by a former marriage, to one-third; if none such issue, to half of the residue. The widower is entitled to all the personal estate of his intestate wife, as well as the life use of her real estate if there has been issue born alive.

WASHINGTON.—Dower and curtesy are abolished. If either husband or wife dies intestate, leaving only one child, or lawful issue of one child, the widow or widower takes half the real estate. If there is more than one child living, or one child and lawful issue of one or more children deceased, the widow or widower takes one-third the real estate. If there is no issue living the widow or widower receives half the real estate, unless there is neither father, mother, brother nor sister of the decedent living, when the survivor takes all the real estate. The surviving husband or wife has one-half the personal estate if there is issue living, otherwise all of it. Also the widow or widower receives one-half of the community property subject to the community debts; and if the deceased made no testamentary disposition of the other half of the community property it goes to the survivor unless there are children living.

WEST VIRGINIA.—Dower and curtesy both obtain. If there are neither descendants nor kindred, the entire real estate of a husband or wife dying intestate, goes to the survivor. If there are 46 children left, the widow or widower has one-third of the personal estate, and all of it if there are none. The husband's claim for the life use of his wife's real estate does not depend on their having had issue born alive.

WISCONSIN.—Dower and curtesy both obtain. The widow is entitled to a life interest in one-third of the real estate and if the husband died intestate she has a child's share of the personal estate. If there is no lawful issue the widow has the entire estate, real and personal. The husband has a life interest in her real estate not disposed of by will, or in all of it if she died intestate, unless she left issue by a former husband, such issue shall take the same, discharged from the right of the

surviving husband to hold the same as tenant by the curtesy. If she is intestate and leaves no issue the widower has the entire estate, real and personal. The homestead of not over forty acres of farm land, or one-quarter of an acre in a town, may be reserved for the widow, and at her marriage or death goes to the former husband's heirs.

WYOMING.—Dower and curtesy are abolished. If either husband or wife dies intestate, leaving descendants, one-half the estate, real and personal, goes to the survivor. If there are no descendants, three-fourths goes to the survivor, unless the estate, real and personal, does not exceed ten thousand dollars, when it all goes to the survivor. If the whole of the community property does not exceed $1,500, all may be assigned to the widow and children, or children if no widow. But if the widow has a maintenance derived from her own property, equal to the portion set apart to her [by this act] the whole property so set apart other than the homestead must go to the minor children.

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RIGHT TO SUPPORT.

The dependence of women in former ages naturally carried with it the right to support. The laws concerning this right have differed only in detail. In general, the support to which the wife has been entitled by law, was very meager. In reality it depends entirely upon the desire, generosity and financial ability of the husband. In happy or contented homes the legal aspect is never raised; it only arises when husbands refuse to obey the law. The following conditions will acquaint any woman with the amount and character of the support to which she is legally entitled.

ALABAMA.—Nothing found in Code of 1886.

ARIZONA TERRITORY.—If the husband fails to support his wife, she may contract debts for necessaries on her husband's credit, and for such debts she and her husband must be sued jointly.

ARKANSAS.—No support for a wife is compelled by law, unless she secures a divorce.

CALIFORNIA.—If a married woman “is a sole trader she is responsible and liable for the support of her minor children.”

COLORADO.—It shall be unlawful for any man residing in this state to wilfully neglect, fail or refuse to provide reasonable support and maintenance for his wife or minor children, and any person guilty of such neglect, failure or refusal, upon complaint of the wife, the Chairman of the Board of County

Commissioners or the Agent of the Humane Society, and upon conviction thereof, shall be adjudged guilty of a misdemeanor and shall be committed to the County Jail for not more than a period of sixty days, unless it shall appear that, owing to physical incapacity or other good cause, he is unable to furnish such support. (Session laws of 1893, p. 126.)

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CONNECTICUT.—If a husband neglects to support his wife he may be committed to the workhouse or county jail and sentenced to hard labor not more than sixty days, unless he can show good cause why he is unable to furnish such support, or unless he can furnish a bond or such sum toward such support as the court may require, for the term of six months after date of conviction. (Laws of 1893.) If he neglects to comply with his bond the selectmen of the town shall immediately furnish support to such wife and children to the extent provided for in such bond. (Laws of 1895.)

DELAWARE.—For failure to support his wife and minor children, a man may be fined from $10 to $100 by Act of April 11th, 1877. By an Act of April 13th, 1887, the husband may be arrested and required to give bail of not more than five hundred dollars. The court may order him to pay a reasonable support, not exceeding one hundred dollars per month, and to give security to the State. If he fails to comply with such order he may be committed to jail. The wife is a competent witness.

DISTRICT OF COLUMBIA.—By a recent decision, a man with property must furnish his wife with a reasonable support.

FLORIDA.—If any husband having ability to maintain, or to contribute to the maintenance of his wife or minor child shall fail to do so, the wife, living with him or apart from him through his fault, may obtain such maintenance or contribution upon bill filed and suit prosecuted, as in other chancery causes, and the court shall make such orders as may be necessary to secure such maintenance or contribution. (Code of 1891.)

GEORGIA.—The husband must furnish the necessaries suitable to their station in life. (Code of 1882.)

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IDAHO.—No provision is made compelling the husband to furnish support to the wife. But if he is infirm, the wife must support him.

ILLINOIS.—Support suited to her condition in life. The husband has the same right of support out of the wife's property. Failure to support the wife and children under twelve, is a misdemeanor, and may be punished by a “fine of not less than $100 or more than $500, or imprisoned in the county jail,

house of correction, or workhouse not less than one month or more than twelve months, or both such fine and imprisonment. (Law passed June 17th, 1893.)

INDIANA.—A wife may sue for support: 1st. If deserted by her husband and left without means of support; 2d. If he has been convicted of a felony and put in states prison; 3d. Where he is an habitual drunkard, and 4th. If he joins a religious society prohibiting marriage. The court may award necessary support according to circumstances, may sell lands of the husband, or allow the wife to sell her lands without his joining. (Code of 1896.)

IOWA.—The support and education of the family are chargeable equally on the husband's and wife's property. (Revised laws of 1888.)

KANSAS.—The husband is obliged by law to support his wife according to his means. If he fails to support her, she may have alimony decreed her by the court, where no cause exists by which a divorce may be granted. In some cases she may sue directly for support.

KENTUCKY.—He is expected to furnish the necessaries, according to his condition in life. If he has no property except his wages, there is no legal provision whereby he can be punished for non-support.

LOUISIANA.—The husband is obliged to furnish the wife with whatever is required for the convenience of life in proportion to his means and conditions.

MAINE.—If the husband lives apart from his wife and children, if the separation was without fault of the wife, the court may order him to make reasonable contribution toward the support of his wife and family and "enforce obedience by appropriate decrees." (Law passed March 25th, 1895.)

MARYLAND.—Non-support is a misdemeanor and can be fined not more than $100 or cause imprisonment in the Maryland house of correction not exceeding one year, or both, in the discretion of the court. (Law passed March 23d, 1896.)

MASSACHUSETTS.—For non-support of wife and minor children, the husband may be fined not exceeding $20, or imprisoned in the house of correction not exceeding six months. At the discretion of the court the fine is paid in whole or part to the town, city, society, or person actually supporting such wife and children. "Proof of neglect to provide for the support of wife or minor children as aforesaid shall be prima facia evidence that such neglect is unreasonable." (Law passed April 26th, 1893.)

MICHIGAN.—The necessaries of life according to the station and means of the husband while she remains in his domicile. If the wife is deserted or non-supported, circuit court of the county shall assign such part of husband's real or personal estate as it deems necessary for her support, and may enforce its decree by sale of such real estate, which provision holds during their joint lives. (Code of 1882.)

MINNESOTA.—In accordance with his means.

MISSISSIPPI.—Nothing definite found in Code of 1892.

MISSOURI.—The husband is liable for necessaries, and if he abandons her without good cause, he may be compelled to support her. If he neglects to do so, he may be prosecuted criminally for the offense.

MONTANA.—The husband must furnish support as far as he is able, and the wife must help if necessary. (Code of 1895.) Any woman becoming a sole trader makes herself responsible for the maintenance of her children. (Law passed March 6th, 1891.)

NEBRASKA.—The husband is expected to furnish suitable maintenance according to his idea of suitability.

NEVADA.—The husband must furnish the necessaries.

NEW HAMPSHIRE.—If the husband is insane, or has given reason for the wife to obtain a divorce, the court may award support for her and the minor children out of her husband's property. (Code of 1891.)

NEW JERSEY.—The husband must furnish such support as will maintain her in the position in which he has placed her by marriage.

NEW MEXICO.—Nothing specific is required.

NEW YORK.—The husband is expected to furnish support equal to what with his income he can "reasonably afford."

NORTH CAROLINA.—Wilful neglect by the husband to provide adequate support for his wife and minor children is a misdemeanor.

NORTH DAKOTA.—"The husband must furnish support according to his circumstances, out of his property or labor; when incapacitated the wife must furnish support out of her private 52 property. Section 7175 of the Code of 1895 makes non-support a misdemeanor, for which the husband may be imprisoned in the county jail not less than thirty days or more than six months.

OHIO.—The husband must support his wife and minor children by his property or labor, but if he is unable to do so, the wife must assist as far as she is able.

OKLAHOMA TERRITORY.—The husband is expected to furnish a suitable and comfortable support according to the financial condition and circumstances of the parties.

OREGON.—If wife is not supported she may apply to the circuit court, and the judge has power to issue such decree as he thinks equitable, "the practice being to conform as nearly as may be to the practice in divorce cases, and the court shall have power to enforce its orders as in other equity cases." (Act of February 25th, 1889.)

PENNSYLVANIA.—As her "baron or lord," he is bound to supply her with shelter, food, clothing and medicine. (Code.)

RHODE ISLAND.—The husband is expected to furnish necessary support suitable to his position in society, to the extent of his ability.

SOUTH CAROLINA.—The law demands that the husband shall provide support suited to her degree in life, but provides no very effective way of enforcing it. Any one may sell to her necessaries and subject the husband's property to the payment of the bills, if he does not furnish a suitable support, but he can claim his homestead against such a debt and in many ways render this remedy unavailing.

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SOUTH DAKOTA.—The husband must support his wife by his separate property or labor, but if he has not deserted her, and has no separate property, and is too infirm to support her by his labor, the wife must support herself and husband out of her separate property. (Revised laws of 1887.) In case either husband or wife abandons the other and removes from the Territory and is absent one year without providing for the maintenance of his or her family, or is sentenced to imprisonment in the county jail or state prison for one year or more, the district court of the county, * * * where the one so abandoned or not imprisoned resides, may, on application * * * authorize him or her to manage, control, sell or encumber the property of the said husband or wife for the support of the family, providing the opposite party shall be notified of the action. An Act of February 21st, 1896,

makes a married woman liable for necessaries for the family purchased on her own account to the same extent that her husband would be liable under a similar purchase.

TENNESSEE.—The law states nothing definite, but the wife may sue for a divorce if the husband does not furnish any support.

TEXAS.—If husband fails to support wife or children from the proceeds of the land she may have, or fail to educate her children as the fortune of the wife would justify, she may in either case complain to the county court, which upon satisfactory proof shall decree that so much of her proceeds shall be paid to the wife for the support of herself and education of her children as the court may deem necessary. (Revised laws of (1895.)

UTAH.—Support for wife may be granted by court, the same as is alimony in case of divorce, if the husband has property in the state. (Law passed March 3d, 1896.)

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VERMONT.—If the husband fails to support his wife, the court may make such decision as it thinks called for, and the town may recover from husband who deserted wife and minor children, leaving them a charge on it for one year previous to the time of action. (Code of 1894.)

VIRGINIA.—Adequate to his means.

WASHINGTON.—Expenses of the family and education of the children are chargeable upon the property of both husband and wife or either of them, and in relation thereto, they may be sued jointly or separately. (Code of 1896.)

WEST VIRGINIA.—Adequate support conditioned upon the husband's property and position in life.

WISCONSIN.—Neglect or refusal to provide for wife and minor children is a misdemeanor, punished by imprisonment in county jail not less than fifteen days, ten days of which, in the discretion of the court, food may be bread and water only, or by imprisonment in states prison not exceeding one year, or in county workhouse, in the discretion of the court. (Code of 1889.)

WYOMING.—Nothing found in Code of 1887.

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Third Chapter.DIVORCE.- INTRODUCTORY.

In many states divorces are obtainable for causes that in other states are grounds for having a marriage annulled or declared void. Omitting these causes, there are six grounds generally recognized as cause for divorce, viz., adultery, cruelty, desertion, drunkenness, imprisonment, and neglect to provide. The conditions as to duration of existence of cause and required residence in the state vary widely. South Carolina refuses to grant divorce for any cause whatever, and New York grants absolute divorce for adultery only. Divorce may be absolute, permitting each to marry again, or limited amounting to a legal separation without either being free to remarry. In declaring a decree of divorce, the court determines the alimony to be allowed the wife, taking into consideration the amount of her own as well as of her husband's property, and the nature of the cause of the divorce. As a general rule, adultery of the wife bars her dower, and of the husband bars his right as tenant by the curtesy. The court also decides which shall have the custody of children. If there is no moral objection to the mother her claim is generally recognized as superior while the children are under seven years of age. Generally divorces are grantd by the county courts, but in Delaware the legislature grants fully 80 per cent.

The following statistics are taken from a paper. “The Divorce Problem,” by Prof. Walter F. Willcox, of Columbia College. His 56 computations are based on the United States census “Report on Marriage and Divorce,” compiled by Mr. Carroll D. Wright, and published in 1889.

During the year 1886 there were 25,535 divorces granted in the United States. It is estimated that the population increases 2½ per cent. annually, while divorces have recently shown an average increase of 5.4 per cent. Compared with the rate of increase in population, divorce is increasing most rapidly in the South and Southwest. There are no statistics of the number of married couples in the whole country, but it is estimated that they are about 18.9 per cent. of the population. On this basis, there were 155 divorces to every 100,000 married couples in 1870, and 203 to every 100,000 in 1880. Marriages ar terminated naturally by death, or by divorce. Of all terminated in 1870, 3½ per cent. were terminated by divorce; in 1880, 4.8 per cent.; in 1890, probably 6.2 per cent. The average interval between marriage and divorce varies from 6½ years in Arkansas to 12 years in Massachusetts, being shorter in the southern states and longer in the northern states east of the Mississippi. This interval has shown an increase of nine months in fifteen years. There is a higher rate of divorce among native than foreign born, and among Protestants than among Catholics. Only four states, New Jersey, Maryland, Minnesota and Colorado have records showing the proportion of divorce granted to couples with and without children; in these it is proved that the rate at which divorce was granted was 3.6 times as great to childless couples as to others. Judging from statistics compiled in Switzerland, the desire for re-marriage is not apparently a motive leading to divorce. In this country, divorces are most frequent on the Pacific coast, and least so on the Atlantic coast. Of all divorces granted in twenty years, 40 per cent. were for desertion, 21½ per cent. for adultery,

16 1/3 per cent. for cruelty, and 4½ per cent. in drunkenness. “Nearly two-thirds of the divorces 57 (65.8 per cent) were granted on demand of the wife. The party going into court is usually somewhat more innocent than the other. Therefore, the husband more often destroys the marriage tie than the wife; certainly he is more likely to commit those overt acts on which a suit for divorce must usually be based. Laws is for the protection of the weak against the strong through the superior strength of numbers, i.e., the community. But weakness may be beyond the effective protection of law. A modicum of knowledge and courage is necessary, or law is of no avail. Seldom can the police effectively restrain parental abuse, and the submissiveness of negroes has foiled many an effort at interference on their behalf. In some parts of the country and in some classes of society a wife's relation to a husband is that of a child to a parent, or a servant to a master, much more than of an equal. Public opinion, her early training, dread of notoriety and the absence of all means of support apart from her husband, compel her to endure wrongs and ill-treatment to which the ear of the judge would be open. The purpose of the divorce law is foiled. Hence the number of divorces decreed is no more a test of the wrongs endured by wives, than the number of parents punished for cruelty to children is a criterion of the abuse they suffer. Divorces to wives measures their resistance, not their burdens. Southern wives are probably more resigned and submissive than northern, and in accordance with this fact, the report shows that they are less inclined to seek a divorce. In seven southern states less than half the divorces are granted to the wife, and in the whole sixteen the ratio is only 55.4, while in thirty northern states and territories 69.2 per cent, are granted to women. If the number of divorces granted to the husband had been unchanged, 112,540, but those granted to wives had remained through the twenty years at the Southern ratio, 55.4 per cent. of the whole, the total number would have been 251,776, instead of 318,716, and the number granted to northern women, 95,240, instead 58 of 172,183.” (Prof. Willcox, “The Divorce Problem,” p.34)

The increase of divorce has caused considerable alarm for the continuance of marriage and the home. Restrictive legislation has not reduced the rate of increase. The one effectual way accomplish this result would be make the cost of divorce excessive, but this would be open to other objections. The social and industrial emancipation of women is justly, considered one cause that has led to the increase. “Divorces are most frequent where women are most emancipated and the percentage to the wife in such communities is excessive. For the whole country the percentage to women is increasing. In the first year (of any records) it was 62 per cent.; in the last, 66 per cent.” (Ibid, p. 68.) Other elements have contributed to this increase, but unquestionably as wives have been able to secure means of self-support they have been less willing to suffer the miseries and wrongs of unhappy marriages. Ethically it is better that ill-conditioned marriages should be dissolved than that the divorce rate should be kept low. Unless we are to lose all confidence in our county courts, it is fair to conclude that the vast majority of these divorces have been justifiable.

The error does not lie in divorce but in marriage. The growing tendency among women to be financially independent, with their general increase in breadth of development and self-respect, will constantly lead fewer women to yield to the temptation of marrying for a home. The marriage rate may be temporarily lowered, but the percentage of conjugal unhappiness will be lowered also, which is of far greater importance. The change in the legal and social status of women in the past fifty years has in reality led to a change in the ideal of marriage. "This ideal bases the family not upon the despotic authority of a single head (as in Rome), but upon the consenting and harmonious wills of two equals; not upon *manus,* but upon marriage. The development and establishment of this (Teutonic) ideal of the family been retarded by the 59 influence of the ecclesiastical courts denying the equality of women in marriage, and also by the prevalence of slavery and constant appeals to war and force as final arbiters of all disputes. Even down to the present time, this ideal has not made itself at home in the minds and hearts of all our people, and many a dispute between husband and wife is at bottom a clashing of the old and new, the despotic and democratic theories. As a democracy requires more knowledge and political virtue than a despotism, so the successful and harmonius management of a family on a democratic basis of equality and delegated powers demands more fidelity and more adaptation than where a single will holds sway." (Ibid, p. 72.) As the conditions increase which shall make marriages of perfect equality possible, the marriage rate will likewise increase and the divorce rate will decrease. The perpetuation of marriage and the home is not threatened by the increase of divorce; instead, while it may be the freer conditions breed some mischief, the increase is indicative of a condition which will lead to happier marriages and purer homes. The autocratic control over the affairs of wife and family by the husband and father are decreasing inversely as the emancipation of woman progresses. The result is a democracy in the home relation which exalts marriage to a higher plane than it has ever occupied.

DIVORCE LAWS IN THE UNITED STATES.

ALABAMA.—To either husband or wife for adultery, impotency, voluntary abandonment for two years, imprisonment for two years in penetentiary, sentence being for seven years or longer; crime against nature, committed before or after marriage. To the husband for pregnancy of wife at time of marriage without his agency or knowledge. To the wife, for habitual drunkenness, if the habit did not exist at time of marriage to the wife's knowledge, and for 60 actual violence committed upon her by the husband, causing danger to life or health, or where there is reasonable apprehension of such violence. If the defendant is a non-resident, the plaintiff must have resided here one year.

ARIZONA TERRITORY.—To either husband or wife for adultery, voluntary abandonment for six months, for excesses, cruel treatment or outrages toward the other by personal violence or any

other means; conviction, after marriage, of a felony, and imprisonment in any prison, but no suit for divorce can be begun until six months after final judgment of conviction, and neither shall have been convicted on the testimony of the other, and no pardon subsequently granted shall interfere with the right to secure a divorce. To the wife for the husband's habitual intemperance for six months, of his wilful neglect to provide for his wife the necessaries and comforts of life for six months, having the ability to provide the same, or failing so to do by reason of his idleness, profligacy or dissipation. The plaintiff must be a bonafide resident of the territory, and six months next preceding in the county where the suit is brought. Marriages are void for impotency, or any other impediment that renders the contract invalid from the beginning.

ARKANSAS.—To either husband or wife for adultery, bigamy, impotency, wilful desertion for one year without reasonable cause, conviction of felony or other infamous crime, habitual drunkenness for one year, cruel and barbarous treatment endangering life, such personal indignities as render the condition of the applicant intolerable. Insanity occurring after marriage, as a cause for divorce, was repealed March 28th, 1895. The plaintiff must have resided in the state one year. The cause of divorce must have occurred in the state, or if out of the state, it must have been a legal cause of divorce where it did occur, or the plaintiff's residence must then have been in that other state. In any case, the cause must have 61 transpired within five years of the time of bringing suit. Five years' absence unheard from, beyond the limits of the state, justifies a second marriage. Marriages are void for consanguinity and between the races, and may be declared null for consent obtained by force, for lack of age or understanding or for physical incapacity.

CALIFORNIA.—Causes for divorce are adultery, extreme cruelty, wilful desertion or wilful neglect for one year, and conviction of felony. A deserted wife may bring an action against her husband for the separate maintenance of herself and children without divorce, if she prefer to do so. The plaintiff must have been a resident of the state one year, and of the county in which the action is brought, three months next preceding commencement of action. The wife's fraud regarding pregnancy cannot be made a ground for divorce; neither can false representations of the husband as to his character and property. A marriage may be annulled for bigamy, impotency, or unsound mind at the time of marriage; for want of legal consent to the marriage, and for consent obtained by force or fraud.

COLORADO.—Causes for divorce are adultery, bigamy, impotency, wilful desertion for one year without reasonable cause, wilful desertion and departure from the state without intention of returning, habitual drunkenness for one year, conviction of felony or other infamous crime, extreme cruelty, failure of husband for one year, being in good bodily health, to make a reasonable provision for the support of his family. The plaintiff must have resided one year in the state except when the

grounds are adultery or extreme cruelty when committed within the estate, providing the suit shall be brought within the county in which such plaintiff or defendant resided or where such defendant last resided. The court may re-open the case in one year upon good reason shown by the defeated party. Neither can re-marry before the expiration of one year.

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CONNECTICUT.—Causes for divorce are adultery, fraud in the marriage contract, wilful desertion and total neglect for three years, seven years absence unheard from, intolerable cruelty, habitual intemperance, imprisonment for life, and infamous crime involving a violation of conjugal duty and punishable by imprisonment in the state prison. The plaintiff must have resided three years in the state unless the cause for divorce shall have arisen subsequently to the removal into the state, or unless the defendant shall have continuously resided there three years next before the date of complaint, and actual service shall have been made upon him, or unless the cause is habitual intemperance, or intolerable cruelty and the plaintiff was domiciled in this state at the time of the marriage and before bringing the complaint has returned to this state with the intention of penalty remaining. Whenever, for any cause, a marriage is void, the Superior Court may, upon complaint, pass a decree declaring such marriage void, and may make such orders regarding the care of the children and alimony as it might make in a suit for divorce.

DELAWARE.—Causes for absolute divorce are adultery, desertion for three years, habitual drunkenness, impotency, extreme cruelty, conviction either in or out of the state, after marriage, of a crime deemed a felony by the laws of this state, whether such crime shall have been perpetrated before or after such marriage. Absolute or limited divorce at the discretion of the court, may be given for procurement of marriage if there was lack of sufficient age of either party at the time of the marriage, if it has not been voluntarily ratified after both parties have attained the legal age; or for wilful neglect of husband for three years to provide his wife with the necessaries of life suitable to her condition. A divorce obtained by an inhabitant of Delaware in another state but for a cause that accrued in Delaware, or for a cause which would not 63 authorize a divorce in Delaware, shall be of no effect within the state. Nor can a divorce be decreed if the cause occurred out of the state and at the time the petitioner was a non-resident of Delaware, unless for the same or a like cause divorce would be granted in the state or country where it occurred. A husband or wife divorced for adultery, may not marry the person with whom the crime was committed. Marriage may be annulled for consanguinity or affinity, between whites and negroes or mulattoes, for bigamy, or when either party at the time of marriage was insane.

DISTRICT OF COLUMBIA.—Absolute divorce may be granted for bigamy, lunacy or impotency at time of marriage; adultery, habitual drunkenness for three years, cruel treatment endangering life or health, willful desertion and abandonment for two years. Divorce absolute or limited for

cruelty or reasonable apprehension, to the satisfaction of the court, of bodily harm. If the cause occurred outside the District, the plaintiff must have lived here for two years next preceding the suit. Marriages are void within the prohibited degrees of relationship and by reason of lunacy.

FLORIDA.—No limited divorce is granted in the State. A wife may sue for alimony without divorce if any cause for a divorce, except bigamy exists, and she is living separate from her husband. The causes for divorce are adultery, bigamy, impotency, desertion for one year, obstinate and wilful; extreme cruelty, habitual intemperance habitual indulgence in violent and ungovernable temper, marriage within the prohibited degrees of relationship, that the defendant has obtained a divorce in any other state. Plaintiff must have resided in the state for two years next prior to the suit.

GEORGIA.—Causes for absolute divorce are adultery, wilful desertion for three years, cruel treatment, habitual intoxication, marriage 64 within the prohibited degrees of relationship, mental incapacity, or impotency, at time of marriage, fraud, force, menace or duress in obtaining the marriage, conviction and imprisonment in penitentiary for term of two years or more, for crime involving moral turpitude; and pregnancy of the wife at time of marriage without the husband's agency or knowledge. One year's residence is necessary. Trial is by jury, and the verdict may be for a total or limited divorce. A total divorce can only be secured if two juries, at different terms of the court, unite on the verdict for it. The second jury settles the division of the property. Marriage of persons legally unable to contract may be declared void—,for consanguinity, impotency, lunacy, nonage, force or fraud.

IDAHO.—Causes for divorce are adultery, extreme cruelty, wilful desertion for one year, wilful neglect or habitual intemperance for one year, conviction of felony, and permanent insanity, providing the defendant has been duly and regularly confined in the insane asylum in the state for at least six years next preceding the suit, and that the plaintiff shall have been an actual resident of the state during the same period. For other causes a residence of six months is sufficient. Marriages may be annulled for nonage, bigamy, mental unsoundness, consent obtained by force or fraud and impotency, all existing at the time of the marriage.

ILLINOIS.—Causes for divorce are adultery, bigamy, impotency, extreme and repeated cruelty, conviction of felony or other infamous crime, desertion for two years without any reasonable cause, habitual drunkenness for two years, an attempt on the life of the plaintiff, by poison or other means showing malice. Plaintiff must have resided in the state one year, unless the cause occurred in this state, or while one or both parties resided here. The wife may sue for separate maintenance without divorce, and if poor, may sue without cost. Marriages are void between those 65 within the

prohibited degrees of kinship, including first cousins, and by reason of insanity or idiocy at the time of the marriage.

INDIANA.—Causes for divorce are adultery, impotency, cruel and inhuman treatment, abandonment for two years, conviction, after marriage, of an infamous crime; habitual drunkenness, and failure of the husband for two years to make reasonable provision for his family. The plaintiff must have been a resident of the state for two years and of the county for six months next preceding suit. The one obtaining the divorce cannot marry again within two years, during which the defendant for just cause may re-open the case. Adultery is not sufficient cause unless the petition is fled before two years after the knowledge of the fault. Marriages that are prohibited by law on account of consanguinity, differences of color, or that are bigamous, are void without divorce is solemnized within the state. If a man has property, a wife may sue and obtain support, if she is deserted, if her husband has been convicted of felony and put in state prison, if he is an habitual drunkard, or if he joins a religious sect prohibiting marriage.

IOWA.—Causes for divorce are adultery, inhuman treatment endangering life, desertion without reasonable cause for two years, conviction of felony after marriage, and pregnancy of the wife at the time of the marriage, unknown to the husband, unless he also had an illegitimate child living at the time of the marriage, unknown to the wife. Plaintiff must have resided one continuous year in the state, unless the defendant is also a resident and has been served with personal notice of the petition. Marriages may be annulled for impotency, bigamy, insanity, idiocy, and if prohibited by law as being within the prohibited degrees of relationship or for other reasons. In the case of a bigamous marriage, if the husband and wife live together after the death of the former husband or wife, the marriage then becomes valid.

KANSAS.—Causes for divorce are adultery, bigamy, impotency, abandonment for one year, extreme cruelty, conviction of felony and imprisonment in the penetentiary therefor, habitual drunkenness, gross neglect of duty, fraud, in the marriage contract and pregnancy of the wife at the time of the marriage, unknown to the husband. Plaintiff must have resided in the state one year. Neither husband nor wife can marry again until six months after the decree is pronounced, during which time, for sufficient reason, the case may be opened again. The wife may sue for alimony without divorce. A marriage may be declared void if either party is incapable, from want of age or understanding, of contracting a marriage. Marriages are prohibited between the white and colored race, if bigamous, for consanguinity, with idiots or lunatics, if either party is under age, and when not solemnized in the presence of an authorized person or society.

KENTUCKY.—Causes for divorce are adultery, impotency, abandonment for one year, conviction of felony in or out of the state, force, duress or fraud in the marriage contract, loathsome disease concealed at marriage or contracted afterward, uniting with a religious society forbidding marriage. Also to the wife, when not in like fault, for confirmed habit of drunkenness continuing one year; coupled with wasting of his estate and failure to provide suitable maintenance for his wife and children; such habitual cruel and inhuman treatment for six months as indicates a settled aversion and tends to destroy permanently her peace and happiness; such cruel beating or injury or attempt at injury as indicates an outrageous and ungovernable temper and probably danger to her life or of bodily injury. Also to the husband for pregnancy of wife at marriage unknown to the husband; for such lewd behavior as proves the wife to be unchaste "without actual proof of an act of adultery," and when the husband is not in like fault, habitual 67 drunkenness for one year. Plaintiff must have resided one year in the state. If the act complained of occurred outside of the state, the plaintiff must have an actual resident of Kentucky at the time of its occurrence, unless it was also a cause of divorce in the country where it was done. In any case, action must be begun within five years of the occurrence of the offense. Either party may marry again, but only one divorce is granted to one person, except for adultery "to the party not in fault, and for the causes for which a divorce may be granted to either husband or wife." The court may grant a limited divorce for any cause it may deem sufficient. Marriages are void and are prohibited if bigamous.

LOUISIANA.—Causes for immediate and absolute divorce are adultery and sentence to infamous punishment. For the other causes, abandonment for five years; such habitual intemperance, excess, cruel treatment or outrages as render living together insupportable; public defamation, or attempts on the life of the other, a decree of temporary separation may be given, which may be followed by a decree of absolute divorce one year later if no reconciliation has taken place meantime. When the case if adultery, the guilty one cannot marry his or her accomplice, under penalty of the crime of bigamy and of penalty of nullity on the new marriage. Marriages between whites and negroes to the third generation are void. Ten year's absence unheard from justifies a second marriage.

MAINE.—Causes for divorce are adultery, impotency, extreme cruelty, utter desertion for three consecutive years next prior to the filing of the bill, gross and confirmed habits of intoxication, cruel and abusive treatment; and to the wife, where the husband, being of sufficient ability, grossly or wantonly or cruelly refuses or neglects to provide suitable maintenance for her. The parties must have been married in this state, or lived here after marriage, or the plaintiff must have lived here where the cause occurred, or must have 68 resided here one full year before bringing suit. Marriages of persons within the prohibited degrees of relationship, with an insane person or an idiot and bigamous marriages, if solemnized in the state, are void. Sentence to imprisonment for life and confinement under it dissolves a marriage without legal process. Marriages may be annulled

between white and negro, mulatto or Indian, for consanguinity, bigamy, nonage, insanity and idiocy existing at the time of the marriage.

MARYLAND.—Causes for absolute divorce are adultery, impotency, any cause which by the laws of the state renders a marriage null and void; abandonment for three years, illicit intercourse by the wife before marriage, unknown to the husband at the time of marriage. Limited divorce is given for excessively vicious conduct, cruelty, abandonment and desertion. If the cause occurred out of the state, the plaintiff or defendant must have resided in the state for two years prior to bringing suit. A wife may sue for alimony without divorce. Marriages may be declared null for consanguinity and bigamy.

MASSACHUSETTS.—Causes for divorce are adultery, impotency, extreme cruelty, cruel and abusive treatment, utter desertion for three consecutive years next prior to the filing of the bill, gross and confirmed habits of intoxication, sentence to imprisonment at hard labor for five years or more, regardless of pardon, if granted; uniting with any religious society forbidding marriage, and continuing with such society for three years without consent of the other; and on the libel of the wife, when the husband being of sufficient ability, grossly or wantonly and cruelly refuses or neglects to provide suitable maintenance for her. All decrees are *nisi* in the first instance, but they may become absolute at the expiration of six months on the application of either party, if no reconciliation has taken place, and if no cause is shown by anyone 69 interested why the absolute decree should not be given. The parties must have lived together as husband and wife in the state; or, if the cause occurred elsewhere, they must have lived together here previously, and one of them must have been a resident here when the cause occurred; or they must have been residents of the state at the time of the marriage, and the plaintiff have lived here three years next prior to the action, or the plaintiff must have lived here five consecutive years next prior to the action, unless it can be shown that he or she moved into the commonwealth for this purpose. Marriages may be declared null for consanguinity, affinity, nonage, insanity, idiocy and bigamy.

MICHIGAN.—Causes, for absolute divorce are adultery, impotency, desertion for two years, habitual drunkenness, imprisonment for three years, and divorce obtained in another state by the other party. Limited or absolute divorce, at the discretion of the court, may be granted for extreme cruelty, whether from personal violence, desertion or otherwise; desertion for two years, and to the wife, where the husband, being of sufficient ability, grossly or wantonly and cruelly refuses or neglects to provide suitable maintenance for her. Sentence to imprisonment for life absolutely dissolves a marriage without any decree of divorce. The plaintiff must have resided in the state one year next preceding the action, unless the marriage took place in the state and one of the parties had resided there ever since. If the cause occurred outside of the state, one or other of the two must have

resided in the state two years next prior to the action. The court may decree that the guilty party may not marry again for a stated time not exceeding two years. Marriages may be declared null for nonage, if not ratified after attaining full age, and for consent obtained by force or fraud if never voluntarily ratified; marriages are void without divorce if they are bigamous, within the prohibited degrees of relationship 70 or if performed during the insanity or idiocy of one of the parties. No decree shall be granted unless the defendant be domiciled in this state, or was at the time the cause for divorce arose, or unless the defendant shall have been personally served with process in this state or with copy of order of publication in said cause, or has voluntarily appeared in such action. If the defendant did not live in the state at the time, the plaintiff must prove that the parties have lived together as husband and wife, or that the plaintiff has resided in the state at least one year in good faith next preceding the action.

MINNESOTA.—Causes for absolute divorce are adultery, impotency, cruel and inhuman treatment, wilful desertion for one year next preceding the filing of the bill, habitual drunkenness for one year next preceding the action, and sentence to imprisonment in state prison. The plaintiff must have resided in the state one year, except in case of adultery committed while resident in the state. Limited divorce may be given to the wife for cruel and inhuman treatment, such conduct on the part of the husband as may render it unsafe or improper for the wife to live with him, and for abandonment of the wife and refusal or neglect to provide for her. For this purpose, both parties must be residents of the state; or the marriage must have taken place in the state and the wife be an actual resident at the time of the complaint, or if the marriage took place elsewhere the parties must have resided here for one year and the wife be an actual resident at the time of the complaint. If the divorce be for the wife's adultery, her own real estate may be withheld from her. Marriage within the prohibited degrees of relationship and bigamous marriages are absolutely void; marriages may be pronounced void by the court on account of the absence for five years of one of the parties, for lack of legal age and when secured by force or fraud.

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MISSISSIPPI.—Causes for divorce are adultery, bigamy, impotency, habitual cruel and inhuman treatment marked by personal violence; wilful, continual and obstinate desertion for two years; habitual drunkenness; sentence too penitentiary; pregnancy of the wife at marriage, unknown to the husband; insanity or idiocy at the time of marriage; relationship within the degrees of consanguinity or affinity prohibited by law. Plaintiff must have resided one year in the state before filing a bill for divorce. If the cause is desertion a bona fide residence of two years is required. If in the case of a person being sentenced to the penitentiary a pardon is secured before the person is sent to the penitentiary, there is no ground then for divorce. In a case of adultery, the court may forbid the

offender to marry again. Marriages are void for consanguinity, and between white persons and negroes of one-fourth or more of colored blood.

MISSOURI.—Causes for divorce are adultery, bigamy, impotency, such cruel and barbarous treatment as endangers the life of the other; absence without reasonable cause for one year, habitual drunkenness for one year, such indignities as render the life of the other intolerable, conviction of felony or other infamous crime after marriage, or before marriage if unknown to the other; vagrancy of the husband, and pregnancy of the wife at the time of the marriage unknown to the husband. The plaintiff must have resided in the state one year next prior to the action, unless the offence or injury complained of was committed within the state, or whilst one or both parties resided in the state. If a husband unjustly deserts his wife, and she does not wish to apply for a divorce, she may have a decree of the court providing for her maintenance out of his property, authorizing her to sell her real estate without his signature, and "ordering any person holding money or other personal estate to which the husband is entitled in her right, to pay 72 and deliver the same to the wife." Marriages are void for bigamy and for relationship within the prohibited degrees of consanguinity, and between the white and colored races.

MONTANA.—Causes for divorce are adultery, extreme cruelty, wilful desertion, wilful neglect or habitual intemperance, each of one year's duration, and conviction of felony. Plaintiff must have resided in Montana one year, unless the offence was committed while one or both parties resided here. Unless they re-marry each other, the innocent party cannot marry again before two years, nor the other before three years. A poor woman may prosecute a suit without costs. Though a divorce may be denied, the court may award the wife and children maintenance. Marriages may be annulled for bigamy, impotency, nonage, if not ratified after attaining full age; unsoundness of mind, if not ratified after recovery of sanity; and for consent obtained by force or fraud, if not voluntarily ratified after the discovery of the fraud.

NEBRASKA.—Causes for absolute divorce are adultery, impotency, wilful abandonment for two years, habitual drunkenness, and imprisonment for three years, or for life. Absolute or limited divorce at the discretion of the court, may be granted for extreme cruelty, desertion for two years, and when the husband, being of sufficient ability to maintain his wife, grossly or wantonly and cruelly refuses or neglects to do so. Plaintiff must have resided in the state six months, except where the marriage was performed in the state and the plaintiff has resided here from then until the time of bringing action. Neither party can marry before six months, during which time the proceedings may be opened again. Marriages may be pronounced null for bigamy, nonage, insanity or idiocy, at time of the marriage; for consent obtained by force or fraud, for relationship within the prohibited degrees of consanguinity, and between a white person and a negro of one-fourth or 73 more colored blood.

If a divorce is granted for the wife's adultery, “the husband may hold such of her personal estate as the court shall shall deem just and reasonable.”

NEVADA.—Causes for divorce are adultery, impotency, extreme cruelty, wilful desertion for one year, habitual gross drunkenness, contracted since marriage, and incapacitating the party from contributing to the support of the family; conviction of felony or infamous crime; and neglect of the husband to provide the common necessaries of life for one year, when such neglect could be avoided by ordinary industry on the part of the husband, and is not the result of his poverty. The plaintiff must have resided in the state and county six months, unless the action be brought in the county where the defendant resides, or where the cause of action occurred. Marriages are prohibited between white people and colored people, mulattoes, Indians and Chinese; they are void without any legal action on account of consanguinity and bigamy; and may be declared void for lack of age or understanding, if not subsequently ratified.

NEW HAMPSHIRE.—Causes for divorce are adultery, impotency, extreme cruelty, treatment seriously injuring health, treatment endangering reason, habitual drunkenness for three years together, conviction of crime punishable in this state by imprisonment for more than a year, and actual imprisonment under such conviction; absence unheard from for three years; wilful absence of husband for three years without making provision for his wife; wilful absence of wife for three years without consent of the husband; absence of the wife from the state and entire separation from the husband, and without his consent, for ten years together; residence of three years in this state of a wife whose husband has left the United States intending to become a citizen of another country, and during the time has not furnished his wife support, 74 and has lived entirely separate; when either party, without sufficient cause and without consent of the other, has abandoned and refused for three years together, to cohabit with the other; and joining any religious sect prohibiting marriage, and refusal to cohabit for six months. Both parties must reside in this state, or the plaintiff must reside here, and personal service must have been made on the defendant in the state, or one of the parties must reside here, and one of them must have resided here one year next prior to the action. Bigamous marriages and those within the prohibited degrees are void without legal process.

NEW JERSEY.—Causes for absolute divorce are adultery, bigamy, impotency; wilful, continued and obstinate desertion for two years; marriage within the prohibited degrees of relationship. Limited divorce may be given for extreme cruelty. One of the parties must have been an inhabitant of the state at the time the cause occurred; or the marriage must have taken place in the state and the plaintiff have been an actual resident both when the cause occurred and when bringing suit; or one of the parties must be an inhabitant at the time of beginning the action, and one of them a resident during the two years in which desertion has continued. If the cause was adultery, and was

committed in the state, one or both of the parties must have resided here at the time of beginning action; if committed outside the state, one of the parties must have lived in the state three years next preceding the beginning of the action. When impotency and bigamy exists at the time of the marriage, “all such marriages shall be invalid from the beginning and absolutely void.” A poor person may sue without costs.

NEW MEXICO.—Causes for divorce are adultery, cruel and inhuman treatment, abandonment. Plaintiff must have resided in 75 the territory six months next prior to beginning suit. Marriages are void within the prohibited degrees of relationship and for nonage.

NEW YORK.—The only cause for absolute divorce is adultery. Both parties must have been residents of the state when the offense was committed; or they must have been married in the state; or the plaintiff must have been resident in the state when the offense was committed and when the action is begun; or the offense must have been committed in the state and the plaintiff be resident here when the action is begun. The plaintiff can marry again, but the defendant cannot marry within the state during the plaintiff's life, except to the plaintiff, unless the court, after five years, modifies the decree and allows the defendant to marry, which it may do if the plaintiff has meantime married again, and the conduct of the defendant has been uniformly good. The defendant may re-marry in another state and if such marriage is valid there it will be valid in New York. A limited divorce may be given for cruel and inhuman treatment, abandonment, conduct rendering it unsafe and improper to live with the defendant, or for the husband's neglect or refusal to provide for the wife. Marriage may be declared null for nonage, bigamy, impotency, idiocy, insanity, and consent obtained by force, fraud or duress. Annullment for impotency, which must be incurable, must be made within five years of the time of the marriage.

NORTH CAROLINA.—Causes for absolute divorce are separation of the husband from the wife and open living in adultery; adultery of the wife, either with or without separation; impotency, pregnancy of the wife at marriage, unknown to the husband; and if the husband is indicted for felony and flees the state and does not return within a year. Causes for a limited divorce are abandonment, cruel or barbarous treatment, endangering life, such indignities 76 to the person of the other as render his or her condition intolerable and life burdensome; habitual drunkenness; and maliciously turning the other out of doors. The cause must have existed at least six months, and the plaintiff must have resided in the state at least two years next preceding the filing of the bill. A wife may give notice that she intends to sue for divorce before the expiration of six months. Marriages may be pronounced void for consanguinity, affinity, bigamy, between whites and negroes or Indians; for nonage, impotency, or mental incapacity at the time of the marriage.

NORTH DAKOTA.—Causes for divorce are adultery, extreme cruelty; wilful desertion or wilful neglect for one year; habitual intemperance for one year, conviction of felony. The plaintiff must have been a resident in good faith in the state for ninety days next preceding the commencement of the action. Divorce can be refused if an unreasonable lapse of time has occurred between the assigned cause, and the beginning of the suit. Marriages may be annulled for bigamy, unsound mind, nonage; force, fraud or physical incapacity. When a divorce is granted for adultery, the innocent party may marry again; but the guilty one cannot marry anyone, unless it be the innocent one, during the lifetime of that one.

OHIO.—Causes for divorce are adultery, bigamy, impotency, extreme cruelty, wilful absence for three years, any gross neglect of duty, habitual drunkenness for three years, sentence and imprisonment in the penetentiary, if sought during the imprisonment; fraudulent contract, divorce procured in another state by the other party, the effect of which is to leave the latter party free and the former still bound. Plaintiff must have a resident of the state one year. A wife may sue for alimony and custody of children without divorce, and then a year's residence is unnecessary. Marriages are prohibited between those nearer than second cousins and if bigamous.

OKLAHOMA;—Causes for divorce are adultery, bigamy, impotency, extreme cruelty, abandonment for one year, habitual drunkenness, gross neglect of duty, conviction of felony and imprisonment in a penitentiary subsequent to marriage, fraudulent contract, and pregnancy of the wife unknown to the husband at the time of marriage. The plaintiff must have been an actual resident in good faith in the territory for ninety days next preceding the filing of the bill and a resident of the county in which the action is brought at the time the petition is filed. Notice to appeal must be filed within ten days of the decision, and proceedings be begun within four months. Neither party can re-marry before six months, nor before thirty days after judgment is rendered by final court of appeal. A wife may sue for alimony alone if any cause exists that would entitle her to divorce. If the parties appear to be equally in the wrong, the court may refuse divorce, but in any case where a divorce is refused, the court may for good cause shown, make such orders as will be proper for the custody and maintenance of the children and the equitable division of the property. Marriages may be void for physical incapacity, bigamy, consent obtained by force or fraud and if within the prohibited degrees of relationship; also for lack of age or understanding if not ratified after such incapacity ceases.

OREGON.—Causes for divorce are adultery, impotency, cruel and inhuman treatment, or personal indignities rendering life burdensome; habit of gross drunkenness contracted after marriage, and continued one year prior to suit; conviction of felony; wilful desertion for one year. Plaintiff must

have resided in the state one year. Marriages may be declared void for bigamy, consanguinity; if either party is incapable of assenting thereto for want of legal age or insufficient understanding; if one party has a fourth or more of negro blood, while the other is white; and if consent has been 78 obtained by force or fraud and the marriage has not been subsequently ratified. Marriages are void between first cousins of the whole or half blood. (Act of February 20th, 1893.)

PENNSYLVANIA.—Causes for absolute divorce are adultery, bigamy, impotency, wilful desertion without reasonable cause for two years; barbarous treatment by husband, endangering wife's life or such indignities to her person as to render her condition intolerable and life burdensome, thereby forcing her to withdraw from the house and family; marriage on false rumor of death of husband or wife six months of the return of the same; on account of lunacy of the wife by a relative or next friend of the wife; marriage procured by force, fraud or coercion, and not subsequently confirmed; marriage within the prohibited degrees of consanguinity or affinity; cruel and barbarous treatment by the wife rendering the husband's condition intolerable and his life burdensome; conviction of forgery or any infamous crime within or without the state, and sentence to imprisonment for two years, providing that the husband or wife makes such application for divorce, and that the crime is one that would be punished by imprisonment for two years or more in this state. The plaintiff must have resided one year in the state. Application may be made six months after desertion, though the divorce cannot be granted until the desertion has existed two years. If a divorce is secured in another state and the defendant remains here, the divorce is not valid here. Limited divorce may be secured for adultery, abandonment of wife by husband for two years, turning the wife out of doors, cruel treatment or personal indignities, and to a woman who has formerly lived in the state and has subsequently married elsewhere, and cause for divorce has since accrued in that other state or country, provided that notice is given the husband by personal service or registered letter at his last known address and that the wife has lived in the state one year 79 next prior to filing her bill. Appeal must be made in one year. The party found guilty of adultery cannot marry the co-respondent during the lifetime of the other. If any divorced woman who shall have been guilty of adultery, shall afterward openly cohabit with the person proved to have been the partaker of her crime, she is rendered incapable of alienating directly or indirectly any of her lands, tenements, or hereditaments; but that all wills, deeds, appointments and conveyances thereof shall be absolutely void, and after her death the same shall descend and be subject to distribution in like manner as if she had died intestate. Marriages are void if within the prohibited degrees of consanguinity and if bigamous.

RHODE ISLAND.—Causes for absolute or limited divorce are adultery, impotency, extreme cruelty; wilful desertion for five years, or for a shorter period in the discretion of the court; living entirely separate for ten years; continued drunkenness; the habitual, excessive and intemperate use of

opium, morphine or chloral; conviction of murder or arson by which the person convicted is deemed civilly dead; such absence or other circumstance as raises the presumption of natural death; neglect or refusal of husband, being of sufficient ability, to provide necessaries for the wife; any gross misbehavior and wickedness repugnant to and in violation of the marriage contract; a marriage void or voidable at law from its celebration. A limited divorce may be given for such other causes as may seem to require the same. One year's residence next prior to filing the bill is necessary. Marriages are void for consanguinity, bigamy, idiocy, and lunacy.

SOUTH CAROLINA.—The state grants no divorce. Marriages are void between the races, for consanguinity, idiocy, lunacy, want of consent if not subsequently ratified, and for bigamy, unless the person has been absent unheard from the unknown about for seven years.

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SOUTH DAKOTA.—Causes for divorce are adultery, extreme cruelty; wilful desertion or wilful neglect for one year; habitual intemperance for one year; conviction of felony. The plaintiff must have been a resident in good faith in the state for ninety days next preceding the beginning of the suit. Divorce can be refused if an unreasonable lapse of time has occurred between the assigned cause and the beginning of the suit. Marriages may be annulled for bigamy, unsound mind, nonage; force, fraud or physical incapacity. If a divorce is granted for adultery, the guilty one cannot marry anyone except the other, during the lifetime of that other.

TENNESSEE.—Causes for absolute divorce are adultery, bigamy, impotency; wilful or malicious desertion without reasonable cause for two years; conviction of infamous crime or felony, with sentence of confinement in the penitentiary; attempt by one on the life of the other by poison or any means showing malice; refusal of wife to remove with her husband to this state without a reasonable cause, and wilfully absenting herself from him for two years; habitual drunkenness contracted after marriage; pregnancy of wife at marriage unknown to the husband. Limited or absolute divorce, at the discretion of the court, may be granted the wife for such cruel and inhuman treatment toward her as renders it unsafe and improper for her to remain under the dominion and control of her husband; such indignities to her person, as render her condition intolerable, thereby forcing her to leave him; abandoning or turning her out of doors, and refusing or neglecting to provide for her. Plaintiff must have resided in the state two years next prior to the suit. Marriages are void for consanguinity, between colored and white persons; if either party was incapable of consenting for lack of age or mental capacity; if consent was obtained by force or fraud, or if it was a bigamous marriage. A second marriage is not bigamous if the former husband or wife has been absent five years 81 and not known to the other to be living. If a divorce is granted for a wife's

adultery, she cannot alienate her lands if she lives openly with her accomplice, and at her death they descend as if she were intestate.

TEXAS.—Causes for divorce, in favor of the husband, when the wife commits adultery; or has voluntarily left him for three years with intention of abandonment. In favor of the wife, when the husband has abandoned her and lived in adultery with another, and if he abandons her for three years, with intent of abandonment. In favor of either, for such excesses, cruel treatment or outrages as render living together insupportable; conviction of felony after marriage, except when the convictions was had on the testimony of the plaintiff, and unless a pardon is secured within the twelve months of the conviction. The plaintiff must be an actual resident of the state and for six months a resident of the county where the suit is brought. The court cannot compel either to transfer real estate to the other. Marriages are null for impotency at time of the marriage or any other impediment that renders the contract void, and between white people and negroes.

UTAH.—Causes for divorce are adultery, impotency, extreme cruelty, wilful desertion for more than one year; habitual drunkenness; conviction of felony; and for wilful neglect to provide the wife with the common necessaries of life. Actual residence for one year in the state and county is required. Marriages are void for consanguinity, bigamy, idiocy, lunacy, nonage, between white race and negroes or Mongolians. The court may declare a marriage void, if obtained by force or fraud and the man was under sixteen and the woman under fourteen, and the parents' consent was not secured and the marriage was not ratified after attaining these ages respectively.

VERMONT.—Causes for divorce are adultery, intolerable severity; confinement at hard labor in states prison for three years or more, or for life, when actually confined at the time of action; wilful desertion for three consecutive years; absence unheard from for seven years; for gross and wanton or cruel neglect or refusal to provide suitable maintenance for the wife, he having sufficient pecuniary or physical ability to make such provision. The parties must have lived together in this state, and the plaintiff must have resided here one full year next prior to bringing suit. No divorce will be granted for a cause which accrued in another state or country before the parties lived together in this state as husband and wife, and while neither party was a resident of this state, unless the libellant (plaintiff) shall have resided in this state at least one year and in the county where the libel is preferred at least three months next before the term of the court to which the libel is preferred. The defendant cannot marry again until three years have elapsed after the divorce, if the plaintiff be still living, unless he re-marries the plaintiff, without making himself liable for imprisonment at hard labor in the state prison for from one to five years. Marriages may be

annulled for bigamy, impotency, consanguinity, nonage idiocy, lunacy, and for consent obtained by force or fraud.

VIRGINIA.—Causes for absolute divorce are adultery, impotency; sentence to the penitentiary, regardless of subsequent pardon; conviction of either of infamous offense before marriage, unknown to the other; when either is charged with an offense punishable with death or imprisonment and is a fugitive from justice and absent two years; abandonment for three years; or if the wife has been a prostitute or was pregnant before marriage, unknown to the husband, provided that in these last two cases and in that of conviction for an infamous offence, the injured party leaves the other immediately on discovering the facts. Limited divorce may be 83 given for cruelty, reasonable apprehension of bodily hurt and abandonment. One of the parties must have lived in the state at least one year prior to the action and one must be domiciled in the state at the time of bringing suit. Marriages may be annulled for bigamy, impotency, consanguinity or affinity, nonage, insanity at time of marriage; between the white and colored races. the court in its discretion may prohibit the party guilty of adultery from marrying again. The court may follow a decree of limited divorce by one for absolute divorce when the desertion has existed three years and there is no probability of a reconciliation.

WASHINGTON.—Causes for divorce are adultery, impotency, cruel treatment of either by the other or personal indignities rendering life burdensome, abandonment for one year, habitual drunkenness of either, or neglect or refusal of husband to make suitable provision for his family; imprisonment of either in penitentiary, if the complaint is filed during the term of such imprisonment; when consent to the marriage was obtained by force or fraud and it was not voluntarily ratified afterward; if incurable chronic mania or dementia has existed for ten years or more, the court in its discretion may grant a divorce; and a divorce may be granted upon application of either party for any other cause deemed by the court sufficient, and the court shall be satisfied that the parties can no longer live together. For adultery, application must be made within one year of knowledge of the offense. The plaintiff must have lived in the state one year. A new marriage cannot be contracted until six months after the decree of divorce is given, or, if appeal is take, before judgement is given regarding the appeal. If a marriage is contracted either within or without the state in violation of these provisions, it is void. When there is any doubt as to the facts rendering a marriage void, either party may apply for and on proof obtain a decree of nullity. Marriages that would be bigamous and between near relatives are prohibited.

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WEST VIRGINIA.—Causes for absolute divorce are adultery, impotency, wilful abandonment for three years, sentence to confinement in the penitentiary; conviction of infamous offence before marriage unknown to the other; pregnancy of wife at time of marriage without the husband's agency

or knowledge; where the wife prior to marriage has been notoriously a prostitute, unknown to the husband; or where the husband, unknown to the wife, has been notoriously a licentious person. Limited divorce may be granted for cruel or inhuman treatment, reasonable apprehension of bodily hurt; desertion and habit of drunkenness formed since marriage. In case a limited divorce has been granted and two years has elapsed since the beginning of the suit without reconciliation being effected, the court upon the application of the injured party and satisfactory evidence may decree a divorce absolute, from the bonds of matrimony, if in the opinion of the court no reconciliation is probable. One of the parties must have been a resident of the state at least one year, and action must brought in the county where the parties last lived, or of the county where one of the parties resides. Adultery cannot be made a cause for divorce unless within five years time of the offense. Marriage performed within the state may be annulled for consanguinity or affinity, bigamy, impotency, insanity, nonage and miscegenation.

WISCONSIN.—Causes for absolute divorce are adultery, impotency, cruel and inhuman treatment, wilful desertion for one year next preceding the beginning of the suit, voluntary separation for five years, habitual drunkenness for one year next preceding the bringing of the suit, when wife is given to intoxication, sentence to imprisonment for three years or more. Limited divorce may be given for wilful desertion for one year, or habitual drunkenness for the same time; when wife is given to intoxication; cruel and inhuman treatment; extreme cruelty; refusal or neglect of husband, he being of sufficient ability, to provide for his wife; such conduct 85 on the part of the husband toward the wife as may render it unsafe or improper for her to live with him. The plaintiff must have resided in the state one year immediately prior to bringing the suit, unless the cause is adultery committed while the plaintiff resided in the state, or unless the marriage was performed in the state, and the plaintiff has resided her from that time until the action is brought, and unless the action is brought by the wife and the husband shall have resided in the state for one year next preceding the commencement of action. Marriages which are within the prohibited degrees of consanguinity and bigamous marriages if solemnized in the state are absolutely void without any legal action. A decree of nullity may be secured for lack of age or mental capacity, when marriage was obtained by force or fraud and is not voluntarily ratified, and when either is imprisoned for life.

WYOMING.—Causes for divorce are adultery, impotency, extreme cruelty, wilful desertion for one year, habitual drunkenness, conviction of felony and sentence to imprisonment after marriage; conviction of felony before marriage, unknown to the other; neglect of husband for one year to provide his wife with the common neessaries of life, he being able to do so by ordinary industry; intolerable indignities; vagrancy of husband, pregnancy of wife at marriage unknown to the husband and without his agency. The plaintiff must have resided six months in the state unless the marriage was performed in the state and the plaintiff has resided here from that time until beginning suit. A

marriage is void without decree on account of bigamy, consanguinity, or mental incapacity at time of its celebration. A marriage may be decreed void for nonage if the parties separate before arriving at the legal age and do not live together afterward, also if it was obtained by forced or fraud and was not voluntarily ratified. Adultery will not serve as a cause for divorce unless the suit is begun within three years of the discovery of the offense.

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Fourth Chapter.GUARDIANSHIP OF CHILDREN.- INTRODUCTORY.

Until very recent times, women have never held a legal right to their own children. When the mother was a slave herself, her children naturally belonged to her owner, and since she is only now' escaping from tutelage, she has not yet universally gained a right to her children unless there is no father who cares to claim them. Formerly the woman's part in procreation was minimized in all speculation and law and was believed to be an inferior contribution. Later scientific investigators have established that the father and mother contribute equally to the physical and mental tendencies of the child. Another former claim, however, entered to contest still further the right of a mother to her child. It was held that as the father furnished the financial support of the child he must have the right to his person, and to dictate the nature of his education, religion and training. In barbarous times the father frequently sold the child; in later days the wife was compelled to teach him the father's religion against her own convictions, to educate him as the father thought fit and was powerless to save the child from immoral associations or suggestions. The husband could bind out the child, at a still later day, which during childhood was a condition of serfdom.

The right of married mothers to their children has been refused longer that any other personal right. The appended conditions in the United States furnish the most eloquent testimony upon this point. In only seven states, Colorado, Kansas, Maine, Nebraska, New York, Pennsylvania and Rhode Island are the conditions 87 unequivocally equal. In the District of Columbia the heading of the section claims equal guardianship, but the text apparently refers to the father only. In Washington the Code of 1896 gives the father greater power, although by an act of 1879 the parents were made equal guardians.

LAWS IN STATES WHERE PARENTS ARE EQUAL GUARDIANS.

COLORADO.—Parents are joint guardians with equal powers. (Law of 1895.)

DISTRICT OF COLUMBIA.—Father and mother have equal rights of guardianship. (Code of 1894, p. 252.)

KANSAS.—The father and mother are the natural guardians; if either dies or is incapable of acting, the natural guardianship devolves on the other. The father, or in case of his death, absence or capacity, the mother may be appointed a guardian of the property of a minor child, if deemed suitable by the court. (Art of October 31st, 1868.)

MAINE.—Equal rights by law of 1895.

NEBRASKA.—Father and mother are the natural guardians of their minor children, and are equally entitled to their custody and to the care of their education, being themselves competent to transact their business and not otherwise unsuitable. If either dies the guardianship devolves upon the other. The last surviving parent may by last will appoint a guardian for any of the children, whether born at the time of making the will or afterwards. (Code 1895, pp. 607-8.)

NEW YORK.—Conditions made equal by act of legislature on March 20th, 1860; repealed in 1862, reëenacted March 22d, 1893.

PENNSYLVANIA.—The mother is made equal guardian of the minor child if she contributes by her labor or otherwise to its support. (Act of June 26th, 1895.)

RHODE ISLAND.—Everyone who can make a will may appoint a guardian of a minor child, providing that in the case of husband and wife, the survivor, being otherwise qualified, shall be the guardian of the child. (Code 1896, p. 637.)

WASHINGTON.—An Act of November 14th, 1879, abolished the civil disabilities of married women except for the suffrage and made the parents equal guardians of the children, “in the absence of misconduct,” and in case of the father's death the mother guardian of the children, as the father would be. But the Code of 1896 gives the father power to appoint a testamentary guardian to control both person and estate. (Section 5635.)

LAWS IN STATES WHERE PARENTS ARE UNEQUAL GUARDIANS.

ALABAMA.—The father by this will may appoint a guardian, but the appointment must be claimed within six months after the will is admitted to probate. The mother is entitled to the custody of the person of the ward until eighteen, if a girl, and until fourteen if a boy. (Code 1886, 2372-3.)

ARKANSAS.—The father is living, if not the mother, is guardian of the minor child, having custody of both person and property unless the latter is derived elsewhere than from this parent. The last surviving parent may appoint a guardian by will. (Code 1894. 3568-3574.)

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ARIZONA.—The father if living, if not the mother while she remains unmarried, and if suitable, must be entitled to the guardianship of the child. A guardian of the person or property or both, of a child born, or likely to be, may be nominated by will or deed to take effect upon the death of the parent so nominating: 1st. If the child is legitimate, by the father with the written consent of the mother, or by either parent if the other is dead or incapable of consenting. 2d. If the child is illegitimate, by the mother.

CALIFORNIA.—The father if living, if not the mother, while she remains unmarried, and if suitable, must be entitled to the guardianship of the child. (Code 1885, 1751.)

CONNECTICUT.—The father if living, if not the mother may be appointed by the Probate Court, or the mother may be so appointed if she is abandoned by her husband. Any other guardian does not have the custody of the person if either parent is living. All persons may appoint a guardian by will who would be entitled to the guardianship if living, but if the custody of a child has been given to the mother by the Supreme Court or General Assembly, she alone has the power of appointing a guardian by will. (Revised Statutes, 454, 462.)

DELAWARE.—The conditions are unequal; the father alone may appoint a guardian by his will. (Code 1893, p. 713.)

FLORIDA.—The father may appoint a guardian during any part of infancy, by a deed or will, and such guardianship shall be over the child and his property. (Code 1891.)

GEORGIA.—The mother is guardian only if the father is dead. He may appoint by will, and so may the mother, if widowed, but only for such children as have no guardian and as to such property as they inherit from her. (Code 1882.)

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IDAHO.—Conditions as in Arizona. (Code 1887.)

ILLINOIS.—The father if living, if not the mother, is entitled to the care of the person and education of a minor, if otherwise suitable. The father may appoint a guardian by his will for a child born or likely to be, providing no such appointment shall deprive the mother of the custody and tuition of the child without her consent, if she be a fit person to have such charge. The mother if widowed, and sane, may appoint a guardian by her will. (Code 1896, p. 767.)

INDIANA.—The father if living, if not, the mother, shall have the custody of the person and control of the education of the minor even though there may be a guardian for the property of such minor. If a guardian has been appointed by will of either father or mother, he shall be given preference by the court. (Code 1896, 2518-9.)

IOWA.—The parents are the natural guardians and are legally entitled to the custody of the minor children. The last surviving becomes the guardian of the person. In practice the father has the prior claim. (Code 1888, 3432.)

KENTUCKY.—Father may appoint a guardian by his will for his infant child, and may make a different one for the estate and for the nature and education. The court in making the appointment shall choose the father, or his testamentary appointee, then the mother, if unmarried, then next of kin, giving preference to the males. (Code 1894, 2016.)

LOUISIANA.—The mother only becomes guardian on the death of the father. If she re-marries, her second husband becomes co-guardian, and the mother loses all right to appoint any other guardian by her will. (Code 1889.)

MARYLAND.—The mother may appoint a guardian by her will, and it shall be as valid as if appointed by the father, if she was capable to execute a will, and if the father was dead and had not appointed a guardian. The mother is guardian only if the father is dead and did not appoint a guardian by his will. (Code 1888.)

MASSACHUSETTS.—The mother is guardian only if she is so appointed by the court in the case of a separation or divorce.

MICHIGAN.—The father if living, if not, the mother, is entitled to the custody of the person and the education of the minor child, if otherwise suitable. The father may appoint a guardian by his will, but if the mother is living she may present objections before the appointment is confirmed by the judge of probate. The decision may be appealed. The mother may appoint a guardian by her will if the father did not do so by his. (Code 1882, 6306, 6308, 6311.)

MINNESOTA.—The father by will may appoint a guardian for a child born or likely to be, and such guardian shall have power over the person and estate; but the father if living, if not, the mother, has the custody of the person, if suitable.

MISSISSIPPI.—Either parent may appoint a guardian by will, out if the other parent survives, such guardian does not have the custody of the ward. (Code 1892, 2184, 2192.)

MISSOURI.—In all cases not otherwise provided for by law, the father while living, and after his death, or where there shall be no lawful father, then the mother, if living, shall be the natural guardian and have the custody of the person, education and estate of the minor. The last surviving parent may appoint a guardian by will. (Code 1885, p. 175.)

MONTANA.—As between parents claiming guardianship, "neither parent is entitled to it as of right,"—"but other things bein equal, if the child be of tender years, it should be given to the mother, and if it be of an age to require education and preparation for labor or business, then to the father." Conditions for testamentary guardians, as in Arizona. (Code 1895.)

NEVADA.—Conditions as in California. (Code 1885, 552.) Also, the father may appoint a guardian by his will; the mother likewise may if the father is dead and no guardian has been appointed. (Section 558.)

NEW HAMPSHIRE.—If the father is insane or has given cause for a divorce, the court may award the children to the wife. The judge of probate may appoint a guardian when necessary and it may be either the father or mother. Every guardian has the care and custody of the minor as well as of his property. (Code 1891, pp. 499, 504.)

NEW JERSEY.—The father is guardian of the estate of a minor, also of the person, but he cannot will or give away without the mother's consent. In case of separation and no misconduct in either the rights are held to be equal after a child is seven years of age. If a widow, the mother is guardian, (Code.)

NEW MEXICO TERRITORY.—The father is guardian if living; if dead, or if he has abandoned the mother, or if there is no lawful father, the mother is guardian, and has the custody of the person, education and estate. Every father and mother may appoint guardians by will. (Code 1884, 1002, 1004, 1030.)

NORTH CAROLINA.—The father if living, if not the mother, is the natural guardian of the person of a minor. The father by will may appoint a guardian for a child born or likely to be. If the 93 father is dead and has not so appointed a guardian, the mother may by her will. The court appoints guardian for the estate of a minor. (Code 1883, 1562.)

NORTH DAKOTA.—Conditions as in Arizona. (Code of 1895.)

OHIO.—Conditions same as for New Mexico. Code 1892, 6264, 6266.)

OKLAHOMA TERRITORY.—Conditions same as for California. (Code 1893, 1508.) Testamentary guardians referred to in 1515.

OREGON.—The father may appoint a guardian by his will. The mother may also if the father is dead and did not appoint one. (Act of February 20th, 1891.)

SOUTH CAROLINA.—Conditions as for Florida. (Code 1882, 2058.)

SOUTH DAKOTA.—The father is guardian and has custody of the person and services, but cannot transfer such custody to anyone except the mother without her written consent, unless she has deserted him or is living separate from him by agreement. Testamentary guardian may be appointed under the same conditions as in Arizona. (Code 1887.)

TENNESSEE.—Claims of father as in Florida. If the mother is abandoned without lawful cause, she may be appointed guardian by the court, but she cannot appoint by will. (Code 1884, 3362.)

TEXAS.—If the parents live together the father is the natural guardian of the persons of the minor children, and is entitled to be appointed guardian of their estates. If they do not live together their rights are equal and may be assigned to either for the good of 94 the children. If either parent is dead, the other is natural guardian and is entitled to be appointed for the estate also, and may appoint a guardian by will. (Code 1895, 2575-8.)

UTAH.—The father if living, if not the mother, is the guardian. The father by his will with the written consent of the mother, or either parent if the other is dead or incapable of acting, may appoint a guardian. (Code 1888, 2541, 4309.)

VERMONT.—The father while living is the guardian, and has the custody of the person and education of the minor; if the father is dead, the mother is the guardian of the person, if deemed suitable. The father may appoint a guardian by his will. (Code 1894, 2737, 2747.)

VIRGINIA.—The father by his will may appoint a guardian for such time as he pleases. (Code 1887, 2597.)

WASHINGTON.—Testamentary guardian as in Florida. (Code 1896, 5635.)

WEST VIRGINIA.—Either father or mother may appoint a guardian by will. (Code 1891.)

WISCONSIN.—Respective claims of father and mother as in California. Testamentary guardians may be appointed as in Florida. (Code 1878, 3964, 3965.)

WYOMING.—The father is the natural guardian. If he dies or becomes incapable, the mother becomes the guardian. The actual guardian may appoint a guardian by will. (Code 1887, 2250-1.)

Fifth Chapter.THE AGE OF PROTECTION.- INTRODUCTORY.

Violation below the ages given in Table II. is denominated a felony rather than a misdemeanor in nearly all of the states. As the age of protection for girls has been raised the penalty has been reduced from death or life imprisonment to a more or less limited term of imprisonment or a fine. The practice quite generally is to reject the girl's testimony if uncorroborated, a circumstance that seldom exists; to rule that previous unchastity of the woman is ample defense, and that resistance must be to the utmost. The fracture of the girl's arm has been denied as proof of sufficient resistance. Connecticut rules that “conviction may be had on the uncorroborated testimony of the child;” Oregon, that “prior unchastity of-woman is no defense,” and Kansas and Illinois that utmost resistance is not essential if force and threats are used. Iowa, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Washington and Wisconsin state especially bad conditions. (See list of penalties.) The tendency of practice on this subject is virtually in favor of men, matching the inexperience of a girl of ten to sixteen or eighteen against the weakness or depravity of mature men. Illogical objection is sometimes made to the enfranchisement of women on the score of its being class legislation. Nothing could be more emphatically of the nature of class legislation than the general legal practice in cases of violation.

However much practical reason there is for legal sanction of immorality, there is neither ethical sanction, justice or wisdom in 96 ruling that consent justifies either man or woman in being immoral. The race deteriorates physically, mentally and morally, in so far as such action is followed. No one is now considered to be free to commit murder, arson, or even suicide, why then should any be free to sacrifice her own or another's honor? The sentiments of savagery have held longer in this

connection than in any other concern of social life. Of property, human life and morality, property was the first to be fully protected by law, then life, and lastly will be honor and morality. Long ago Edmund Burke said, “It is not, perhaps, so much the assumption of unlawful powers as by the unwise or unwarrantable use of those which are most legal, that governments oppose their true end and object.” The end and object of government should be one with the advance of civilization, “the narrowing of the domain of mere force as a governing factor in the world, the love of ordered freedom, abhorrence of what is mean and cruel and vile, ceaseless dovotion to the claims of justice.”

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AGE OF CONSENT IN 1896.

7 10 12 13 1 15 16 18 Delaware [1] Alabama Kentucky New Hamp. California Iowa Arkansas Arizona Florida Louisiana Illinois Texas Connecticut Colorado Georgia Tennessee [3] Indiana Dist. of Col. Idaho Mississippi West Virginia Maine Massachu'tts Kansas N. Carolina [2] Maryland Michigan Missouri So. Carolina Nevada Minnesota Nebraska New Mexico Montana New York Vermont New Jersey Utah Virginia North Dakota Wyoming Wisconsin Ohio Delaware [1] N. Carolina [2] Oklahoma Oregon Pennsylvania Rhode Island South Dakota Washington Tennessee 3

1 Between the ages of seven and eighteen the crime is a misdemeanor.

2 Between the ages of ten and fourteen the crime is a misdemeanor.

3 Between the ages of twelve and sixteen and one day it is a misdemeanor.

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PENALTIES FOR RAPE.

ALABAMA.—“At the discretion of the jury, death or imprisonment in the penitentiary for life.”

ARIZONA.—“Confinement in the territorial prison for life or for a term of years not less than five.”

ARKANSAS.—“Imprisonment in the penitentiary not less than five years nor more than twenty-one years.”

CALIFORNIA.—“Imprisonment in the penitentiary not less than five years.”

COLORADO.—"Confinement in the penitentiary not less than one year nor more than twenty years."

CONNECTICUT.—Imprisonment in "state's prison not less than three years." "Conviction may be had on the uncorroborated testimony of the child." (Code of 1875.)

DELAWARE.—Death. The offense is only "a misdemeanor" between seven years and eighteen years of age, and the offender can only be "fined not more than $1,000 or imprisoned for a term of years, not more than seven years, or both fined and imprisoned at the discretion of the court."

DISTRICT OF COLUMBIA.—"For the first offense imprisonment at hard labor in the penitentiary, not more than fifteen years, and for each subsequent offense not more than thirty years."

FLORIDA.—"Death or imprisonment in state prison for life.'

GEORGIA.—"Death, unless the defendant is recommended to mercy by jury, in which case the punishment shall be the same as for an assault with intent to commit rape, viz., imprisonment at hard labor in the penitentiary not less than one year, nor longer than twenty years."

IDAHO.—"Imprisonment in state's prison not less than five years, and this may be extended to life."

ILLINOIS.—"Imprisonment in the penitentiary not less than one year, and may extend to life."

"Prosecution not defeated by failure to resist to the utmost caused by threats and intimidation." (Code of 1887.)

INDIANA.—"Imprisonment in state prison not more than twenty-one nor less than one year."

IOWA.—"Imprisonment in the penitentiary for life or any term of years." An amendment of March 2d, 1894, rules that a man "cannot be convicted upon the testimony of the person injured, unless be corroborated by other evidence tending to connect the defendant with the commission of the offense," viz., "rape, assault with intent to commit rape, enticing away a chaste female for purposes of prostitution, or aiding or assisting therein, or for seducing and debauching any unmarried woman of previously chaste character." (Laws of 1894.)

KANSAS.—"Imprisonment at hard labor not less than five nor more than twenty-one years." "It is not essential that the female make the utmost resistance of which she is capable. If in consequence

of his threats and display of force, through fear of death or great personal injury, the crime is complete." (Code of 1889.)

KENTUCKY.—"Death, or imprisonment for life at the discretion of the jury."

LOUISIANA.—"Death."

MAINE.—"Imprisonment for life or any terms of years."

MARYLAND.—"At the discretion of the court he shall suffer death, or imprisonment in the penitentiary, for a definite period of not less than eighteen months, nor more than twenty-one years."

MASSACHUSETTS.—"Imprisonment in the state prison for life or for any term of years, or for any term in any other penal institution in the commonwealth."

MICHIGAN.—"Imprisonment for life, or for any such period as the court, in its discretion, shall direct."

MINNESOTA.—If the child is under ten, "imprisonment in state prison for life;" if over ten and under fourteen," state prison, not less than seven nor more than thirty years;" if over fourteen and under sixteen," state prison not less than one nor more than seven years, or by imprisonment in the county jail, not less than three months nor more than one year."

MISSISSIPPI.—"Death, unless the jury shall fix the penalty at imprisonment in the penitentiary for life." "While the testimony of the prosecutrix is to be scrutinized with care and judgment, yet no unreasonable suspicion should be indulged against her." (Annotated Laws, 1892.)

MISSOURI.—"Imprisonment in the penitentiary for a term of two years, or by a fine of not less than $100 or more than $500, or by imprisonment in the county jail not less than one month or more than six months, or both such fine and imprisonment, at the discretion of the court." The law of 1895 contains the condition "of previously chaste character, between the ages of fourteen and eighteen years." "Subsequent assent of the woman by asking compensation will not purge the guilt of rape." (Revised Laws, 1889.)

MONTANA.—"State prison not less than five years."

NEBRASKA.—"Imprisonment in the penitentiary not more than twenty years nor less than three years." The law passed in 1895 contains the condition "unless such female child ... is over fifteen years of age (and under eighteen) previously unchaste."

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NEVADA.—"State prison for a term not less than five years and which may extend to life."

NEW HAMPSHIRE.—"He shall be imprisoned not exceeding thirty years."

NEW JERSEY.—"A fine nor exceeding $1,000 or imprisonment at hard labor for any term of years not exceeding fifteen years, or both."

NEW MEXICO.—"Imprisoned not less than five nor more than twenty years."

NEW YORK.—First degree, "Imprisonment for not more than twenty years;" Second degree, "Imprisonment for not more than ten years." Trials may be held privately.

NORTH CAROLINA.—Under ten, "death;" over ten and under fourteen, "fine or imprisonment in the state prison, at the discretion of the court," if previously chaste.

NORTH DAKOTA.—First degree, "Imprisonment in the penitentiary not less than ten years;" second degree, "Imprisonment in the penitentiary not less than five years." "But no conviction can be had in case the female is over the age of ten years and the man under the age of twenty years at the time of intercourse, and it appears to the satisfaction of the jury that the female was sufficiently matured and informed to understand the nature of the act and consented thereto." (Revised Laws, 1895.)

OHIO.—"Imprisonment not more than twenty nor less than three years." "The proper instruction is that the female must in fact understand the nature of the act, must have such knowledge on the subject as females of ten usually have." But "a preponderance of evidence is sufficient to rebut such presumption, and it is 102 therefore an error to charge the jury that the evidence in such a case must show the female's capacity beyond a doubt." (Criminal Code, 1878.)

OKLAHOMA.—First degree (when the girl is under fourteen), "Imprisonment in the territorial prison not less than ten years;" second degree, "Imprisonment, not less than five years." The condition holds "where of previous chaste and virtuous character."

OREGON.—"Imprisonment not less than three nor more than twenty years." Prior unchastity of woman is no defense. The fact that the woman was a common prostitute, or the defendant's mistress, is no defense, and the reputation of the prosecutrix for unchastity is no justification or

excuse of the offense, though evidence of this character is admissible to impeach her testimony as to want of consent. (Code or 1887.)

PENNSYLVANIA.—"Fine, not exceeding $1,000, and undergo an imprisonment by separate and solitary confinement at labor, or by simple imprisonment, not exceeding fifteen years." Gives the condition, "Provided, however, ... if the jury shall find the woman (under sixteen) was not of good repute" .... and gave consent .... "the defendant shall be acquitted of the felonious rape and convicted of fornication only."

RHODE ISLAND.—"Imprisonment for life or any term of years not less than ten. Gives the condition, "Provided, however, that no person shall be convicted under this section upon the evidence of one person only, unless such witness be corroborated by other evidence." (Laws of 1889.)

SOUTH CAROLINA.—"Death, with privilege of the jury to recommend to mercy, whereupon the penalty may be reduced to imprisonment in the penitentiary at hard labor during the whole lifetime of the prisoner."

SOUTH DAKOTA.—First degree, "Imprisonment in the penitentiary not less than ten years;" second degree, "Imprisonment not less than five years."

TENNESSEE.—If under twelve, "death by hanging, or in the discretion of the jury, imprisonment in the penitentiary for life or for a period not less than ten years." Otherwise, "imprisonment, not less than three months nor more than ten years, in the penitentiary." Gives the condition, "Provided no conviction shall be had on the unsupported testimony of the female .... or if the female is a bawd, lewd female." (Code of 1895.)

TEXAS.—"Death, or confinement in the penitentiary for life or for any term of years not less than five, in the discretion of the jury."

UTAH.—"Imprisonment in the penitentiary not less than five years."

VERMONT.—"Imprisonment in the state prison not exceeding twenty years, and by a fine not exceeding $200, or by either of said penalties, in the discretion of the court."

VIRGINIA.—"In the discretion of the jury, punished with death or confinement in the penitentiary, not less than five years nor more than twenty years."

WASHINGTON.—"Imprisonment in the penitentiary for life or for any term of years." "Deceit and fraud of a physician whereby he wins consent bars conviction for rape." (Code of 1891.) "When a man was sent to the penitentiary for seduction or under the old law for rape, he was invariably pardoned before his term was out. Since life imprisonment was made the penalty, there has been apparently no infringement of the law." (Mrs. Bessie Isaacs Savage.)

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WEST VIRGINIA.—"Death, or in the discretion of the jury imprisonment for not less than seven years nor more than twenty years."

WISCONSIN.—"Imprisonment not less than five years nor more than thirty-fie years." "A state of dementia, not idiotic, but approaching it, where no force or fraud is used, is not rape." "Neither is it rape to obtain knowledge of a woman by false representation, as by a physician representing that it is necessary as a part of his medical treatment, and thus obtain consent. (Annotated laws of 1889.)

WYOMING.—"Imprisonment for a term not less than one year and which may extend to life."

Table III.

PROGRESSIVE LEGISLATION.

Arizona Territory, Ten to fourteen (Fourteen in Revised Laws of '87). Fourteen to eighteen, March 19th, 1895. Arkansas, Twelve to sixteen, April 1st, 1893. California, Ten to fourteen, March 16th, 1889. Colorado, Ten to sixteen, April 9th, 1891. Sixteen to eighteen, April 22d, 1895. Connecticut, Ten to fourteen, March 16th, 1887. Life imprisonment repealed, May 4th, 1893. Fourteen to sixteen, June 29th, 1895. Delaware, Seven years, March 28th, 1871. Fifteen years, March 29th, 1889. Eighteen years, March 7th, 1895. District of Columbia, Twelve to sixteen, February 9th, 1889. Idaho, Ten to fourteen, January 31st, 1893. Fourteen to eighteen, February 19th, 1895. Illinois, Ten to fourteen, June 18th, 1893. Iowa, Ten to thirteen, April 9th, 1886. Thirteen to fifteen, March 19th, 1896. 105 Kansas, Ten to eighteen, March 14th, 1887. Maine, Ten to thirteen, March 16th, 1887. Thirteen to fourteen, February 14th, 1889, Maryland, Ten to fourteen, April 8th, 1890. Massachusetts, Ten to thirteen, June 21st, 1886. Thirteen to fourteen, May 23d, 1888. Fourteen to sixteen, June 9th, 1893. Michigan, Ten to fourteen, September 28th, 1887. Fourteen to sixteen, April 29th, 1895. Minnesota, Ten to sixteen, April 20th, 1891. Missouri, Twelve to fourteen. Fourteen to eighteen, April 8th, 1895. Montana, Ten to fifteen, March 5th, 1887. Fifteen to sixteen, March 19th, 1895. Nebraska, Ten to twelve, March 5th, 1885. Twelve to fifteen, March 31st, 1887. Fifteen to eighteen, April 9th, 1895. Nevada, Twelve to fourteen, March 6th, 1889. New Hampshire, Ten to thirteen, November 4th, 1887. New Jersey,

Ten to sixteen, April 28th, 1887. New Mexico, Ten to fourteen, February 10th, 1887. New York, Ten to sixteen, June 24th, 1887. Sixteen to eighteen, April 27th, 1895. North Carolina, Ten to fourteen, March 13th, 1895. North Dakota, Ten to fourteen, February 7th, 1887. Between ten and sixteen, (in Rev. Laws of '95.) Ohio, Ten to twelve, March 8th, 1887. Twelve to fourteen, March 13th, 1894. Fourteen to sixteen, March 3d, 1896. Oklahoma, Made fourteen in 1890. Fourteen to sixteen, February 27th, 1895. Oregon, Made fourteen, October 19th, 1864. Fourteen to sixteen, February 23d, 1895. Pennsylvania, Ten to sixteen, March 19th, 1887. Rhode Island Made fourteen, April 25th, 1889. Fourteen to sixteen, May 8th, 1894. South Dakota, Ten to fourteen, February 7th, 1887. Fourteen to sixteen, March 1st, 1893. 106 Tennessee, Ten to twelve. Twelve to sixteen years and one day, April 6th, 1893. Texas, Ten to twelve, April 13th, 1891. Utah, Ten to thirteen, January 26th, 1888. Thirteen to eighteen, February 13th, 1896. Vermont, Eleven to fourteen, November 22d, 1886. Virginia, Twelve to fourteen, March 3d, 1896. Washington, Twelve to sixteen, January 29th, 1886. Wisconsin, Ten to twelve, April 11th, 1889. Twelve to fourteen, April 19th, 1895. Wyoming, Ten to fourteen, March 7th, 1882. Fourteen to eighteen, December 18th, 1890.

THE FOLLOWING STATES HAVE MADE UNSUCCESSFUL EFFORTS TO RAISE THE AGE OF CONSENT:

Alabama, Eighteen asked in 1895—Bill lost.

Arkansas, Eighteen asked in 1895—Sixteen secured.

California, Eighteen asked in 1895—Sixteen passed and vetoed by Gov. Budd. [1]

Kentucky, Eighteen asked in 1893—Bill lost.

Minnesota, Eighteen asked in 1895—Bill lost.

New Hampshire, Sixteen asked in 1895—Passed and vetoed by Gov. Busiel. [2]

Texas, Eighteen asked in 1895—Fifteen secured by hard fight.

Washington, Eighteen asked in 1895—Bill lost.

Indiana, Eighteen asked in 1895—Bill lost.

Iowa, Eighteen asked in 1895—Fifteen passed the house and lost.

New Jersey, Eighteen asked in 1895—Bill lost.

Wisconsin, Eighteen asked in 1895—Fourteen secured.

1 Governor Budd gave no reason why he vetoed the bill.

2 Governor Busiel claimed the law was not properly framed.

Sixth Chapter. CRIMINALITY AMONG WOMEN.

The following table is compiled from the United States Census for 1890, and gives the percentage of women in the total number of prisoners in the state prisons. In the state prisons are generally confined those convicted for more serious offenses and serving longer sentences. If the figures could have been obtained from all the smaller prisons and jails in every state the percentages would have been higher, but the proportion of women even then would have been very much smaller than the proportion of men. The logical connection between a low criminality and a high moral sense and hence the practical fitness and reciprocal adaptability of the suffrage for women and woman suffrage for the state is obvious,

CRIMINALITY AMONG WOMEN.

PER CENT.

Alabama, 7.7

Arizona Territory, 1.2

Arkansas, 4.3

California, 3.7

Colorado, 2.5

Connecticut, 8.3

Delaware, 4.3

District of Columbia, 17.9

Florida, 6.4

Georgia, 5.2

Idaho, (no women.)

Illinois, 5.4

Indiana, 5.6

Iowa, 2.1

Kansas, 1.8

Kentucky, 5.0

Louisiana, 12.4

Maine, 6.4

Maryland, 9.7

Massachusetts, 14.3

Michigan, 5.5

Minnesota, 3.8

Mississippi, 6.1

Missouri, 5.1

Montana, 2.5

Nebraska, 2.1

Nevada, 1.3

New Hampshire, 7.4

New Jersey, 10.9

New Mexico Territory, 6.8

New York, 13.3

North Carolina, 5.9

North Dakota, 3.0

Ohio, 7.7

Oklahoma Ter. (not reported.)

Oregon, .4

Pennsylvania, 9.1

Rhode Island, 14.5

South Carolina, 7.0

South Dakota, 1.6

Tennessee, 6.8

Texas, 3.1

Utah, 2.6

Vermont, 3.5

Virginia, 11.8

Washington, .8

West Virginia, 5.5

Wisconsin, .4

Wyoming, (no women.)

Seventh Chapter.WOMAN SUFFRAGE.- INTRODUCTORY.

The first organized demand by women for political recognition was made in the United Sates in 1848, at the memorable Seneca Falls Convention. That suffrage should be included had not beforehand entered the minds of those who issued the call for the convention, but it was suggested during the preparation of the Declaration of Independence and incorporated in the list of grievances submitted by the committee. It came like a bombshell upon the unprepared convention, and after long discussion was passed by only a bare majority. Lucretia Mott was one of those who at that time could not see her way to support it. The organization of different state suffrage associations followed, continuing the agitation. In 1869 Wyoming granted full political equality to women.

Different degrees of school suffrage are now granted in twenty-two states and territories, partial suffrage for public improvements in three, municipal suffrage in one, and in Wyoming, Colorado, Utah and Idaho women vote for all officers, local, state and national, exactly as do men.

It was not still 1869 that public agitation for suffrage was begun in England. In that year John Stuart Mill presented the subject in Parliament. Considerable local franchise has been secured, and the cause of the admission of women to full parliamentary suffrage steadily gains. Just as our western states are less conservative than those in the east, so the English colonies have been more ready to 110 recognize woman's demands that has Great Britain. Full suffrage is established in New Zealand and South Australia and in the Isle of Man.

The movement is also growing on the Continent. School and local suffrage has been granted in a number of countries and provinces. Quite generally a property qualification is required, but this is so in the case of men also. In a few cases women can vote only by proxy.

Though all asked for by women has not been secured to them either abroad or in this country, considering the strength and obstinacy of prejudices rooted in customs of unnumbered centuries, the concessions secured in a short fifty years are phenomenal. Wider general education and the practical experience of the successful operation of woman suffrage are destined eventually to consummate the political emancipation of women.

Table IV.

WOMAN SUFFRAGE IN THE UNITED STATES.

Partial Suffrage. Full. SCHOOL SUFFRAGE. MISCELLANEOUS. MUNICIPAL. States All trustees [1] and directors, when elective. County Superintendent. State Superintendent. School bonds, or school appropriations Bonds for municipal purposes and increase of taxes. Public improvements submitted to taxpayers. City officers, bonds, public improvements, etc. All officers and questions upon which men may vote. Arizona Territory yes [2] Colorado [7] yes [3] Connecticut yes [4] Delaware [8] yes [5] Idaho [9] yes [3] Illinois [10] yes [3] Iowa yes [3] yes [3] Kansas [11] yes [3] yes [3] yes [3] Kentucky yes [6] yes [6] Louisiana [18] yes Massachusetts yes [4] Michigan [12] yes [2] yes [2] Minnesota yes [3] yes [3] yes [3] Mississippi [13] Montana yes [3] yes [3] Nebraska yes [3] yes [3] New Hampshire yes [3] New Jersey yes [3] New York yes [3] yes [3] North Dakota yes [3] yes [3] yes [3] yes [3] Ohio yes [3] Oklahoma Territory yes [3] Oregon [14] yes [5] South Dakota yes [3] Utah [15] yes [3] Vermont yes [5] yes [5] Washington [16] yes [3] Wisconsin yes [3] Wyoming [17] yes [3] Total 20 states and 2 territories. 3 states. 1 4

1 Local officers

2 Must pay taxes or be the mother or guardian of children of school age.

3 Qualifications are the same as for men.

4 Educational qualification same as for men.

5 Property qualification.

6 Widows with children of school age vote for trustees, and widows and spinsters who pay taxes, vote on school taxes, in the country districts. In the three second class cities women can hold school offices and vote on the same terms as do men.

7 Secured by a legislative enactment, endorsed by a referendum to male voters, November, 1893, receiving a majority of 6000.

8 In Wilmington, and at town elections in Townsend, Wyoming, Milford and Newark.

9 Secured by constitutional amendment on November 3d, 1896.

10 Women vote for trustees of the state university, and if adult owners of land, for drainage commissioners.

11 Secured by legislative enactment, February 16th, 1887.

12 Municipal suffrage was granted by the legislature in 1893, but was declared unconstitutional by the Supreme Court.

13 The code gives freeholders the right to vote on the “stock law,” and under this law some women have voted.

14 An amendment granting full suffrage is pending in the legislatures of Oregon and of Nevada.

15 Secured by constitutional amendment when admitted as a state in 1895. The territorial legislature enfranchised women, February 12th, 1870. They were disfranchised by the passage of the Edmunds bill through Congress, February 19th, 1887.

16 The territorial legislature enfranchised women, November 22d, 1883. The Supreme Court declared the act unconstitutional by decisions in 1886 and 1888.

17 The territorial legislature enfranchised women, December 10th, 1869. The state constitution, adopted in 1890, confirmed the right.

18 By law of June 28th, 1894, women owning immovable property in a drainage district may vote, on plans of drainage to be adopted, and amount of tax to be levied, in person or by duly authorized proxy.

Notes to Table IV.

1 Local officers

2 Must pay taxes or be the mother or guardian of children of school age.

3 Qualifications are the same as for men.

4 Educational qualification same as for men.

5 Property qualification.

6 Widows with children of school age vote for trustees, and widows and spinsters who pay taxes, vote on school taxes, in the country districts. In the three second class cities women can hold school offices and vote on the same terms as do men.

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18 By law of June 28th, 1894, women owning immovable property in a drainage district may vote, on plans of drainage to be adopted, and amount of tax to be levied, in person or by duly authorized proxy.

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Table V.

WOMAN SUFFRAGE IN FOREIGN COUNTRIES.

Country or Province. Partial Full School board. Poor Law Guardians. Parish and District Council. County Council or similar body. Town Council or similar body. Rural officials. All offices and questions with same qualifications as for men. England yes [1] yes [1] yes [2] yes [3] yes [3] Scotland yes [1] yes [1] yes [2] yes [3] yes [3] Wales yes [1] yes [1] yes [2] yes [3] yes [3] Ireland yes [1] yes [4] Guernsey yes [5] Isle of Man yes [6] Canada Ontario yes [7] Canada Nova Scotia yes [7] Canada Manitoba yes [8] Canada New Brunswick yes [9] Canada Br. Columbia yes [9] Cape of Good Hope yes Australasia Victoria yes Australasia Queensland yes Australasia Tasmania yes Australasia New South Wales yes Australasia New Zealand yes [10] Australasia South Australia yes [11] Sweden yes yes yes Norway yes Iceland yes yes Finland yes yes Russia yes yes yes Prussia yes Westphalia

yes Schleswig-Holstein yes Saxony yes Brunswick yes Austria yes Croatia yes Austria Bohemia yes Austria Galicia yes Austria Lodomeria yes Austria Cracow yes Austria Moravia yes Italy (see notes) Belgium (see notes) Luxembourg (see notes) Roumania (see notes) Total 5 5 4 5 18 14 3

1 All ratepayers.

2 Resident owners and occupiers, including married women, who have separate property qualifications from their husbands.

3 Resident owners and occupiers other than married women.

4 Municipal vote secured to women householders of Belfast in 1887, and in Blackrock and Kingstown in 1894.

5 Secured in 1892.

6 By law 1880, secured to women who are property owners, and by law of 1892 to all women who are rate-payers.

7 Secured in 1884 to unmarried women and widows with property.

8 Secured in 1886 to unmarried women and widows with property.

9 Secured in 1888 to unmarried women and widows with property.

10 Secured in 1893.

11 Secured in 1894.

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Notes to Table V.

1 All ratepayers.

2 Resident owners and occupiers, including married women, who have separate property qualifications from their husbands.

3 Resident owners and occupiers other than married women.

4 Municipal vote secured to women householders of Belfast in 1887, and in Blackrock and Kingstown in 1894.

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6 By law 1880, secured to women who are property owners, and by law of 1892 to all women who are rate-payers.

7 Secured in 1884 to unmarried women and widows with property.

8 Secured in 1886 to unmarried women and widows with property.

9 Secured in 1888 to unmarried women and widows with property.

10 Secured in 1893.

11 Secured in 1894.

Sweden: In urban and rural communes unmarried women who are ratepayers vote indirectly or by proxy, as they choose, since 1862. Indirectly they also vote for members of the Upper House. Women are eligible to the Municipal, Poor, Relief Committees, and the school board of Stockholm since 22d March, 1889.

Norway: In towns, since 1889, women with children can vote for school inspectors and are eligible to the school boards. In rural communes women who pay the school tax vote on all questions and officers, and women with children, even if they pay no tax, on questions not involving expenditures. Women are eligible as inspectors.

Iceland: Secured in 1882 to widows and unmarried women with property.

Finland: Since 1865, widowed, divorced and unmarried women may vote for rural officials; and since 1873, widowed, divorced and unmarried women who are ratepayers may vote at municipal elections. Women are eligible as guardians of the poor since 1889.

Russia: Women peasants, as representatives of families or households, may vote in the *mir* or village assemblies. In the "territorial assemblies" and cities women (above the peasant order), whether married or unmaried, if possessed of sufficient property, vote by proxy. Since 1890 they must choose from among their near male relatives. Women of the novility, possessing proper property qualifications, may vote by proxy in the assemblies of the nobility.

Prussia: By the law of 1856 all women possessed of the required property qualifications vote by proxy, but are ineligible.

Westphalia: The law of 1856 grants the same suffrage as in Prussia. Ineligible.

Schleswig-Holstein: The law of 1867 grants the same suffrage as in Prussia. Ineligible.

Saxony: By the law of 1873 women vote on the same terms as do men, a property qualification. Married women vote by their husbands as a proxy, and single women vote directly. They are ineligible.

Brunswick: By law of 1850 unmarried women and widows may vote by proxy, but are ineligible.

Austria: By law of 1862, unmarried women and widows, with property, vote by proxy, but are ineligible.

Croatia: Women may vote by proxy except in certain towns within the former Land of the Military Borders.

Bohemia: By the law of 1873 women who are large landed proprietors may vote by proxy for members of the Imperial Parliament and the local Diet.

Galicia: By the laws of 1866 women living with their husbands vote by the husband, and other women by proxy also.

Lodomeria: Conditions same as in Galicia.

Cracow, Duchy of: Conditions same as in Galicia.

Moravia: The right of women to the suffrage is not limited to the large landed proprietor class, but they vote only by proxy.

Italy: The property qualification of a widow or woman legally separated from her husband may be transferred to a son, grandson or great-grandson appointed by her, by the law of 1882.

Belgium, Luxembourg, Italy and Roumania: In these countries “the attribution by right to the husband of the taxes paid by his wife obtains in the case of local elections and for political elections. In Luxembourg, the taxes paid by a woman are attributed not only to the husband of the woman but also to the eldest son of a widow, or if she has none, to her eldest son-in-law. In the Prussian towns, where women are excluded from the suffrage, their taxes and generally all their property qualifications, which carry with them a vote, are accounted to the husband, so as to give him a right to take part in the appointment of electors who are to choose the municipal council.”—Ostrogorski, *The Rights of Women,* page 126.

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